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ABSTRACT

Responses to over 100 of the most frequently-asked questions about the education of language-minority students are presented for Maine school personnel. The book has 12 sections. The first lists and defines common acronyms, and the second addresses various aspects of student evaluation, including: identification of limited-English-proficient (LEP) students, definitions of testing terms, standardized tests, psychological and intelligence tests, English language proficiency tests, appropriateness of comparisons among students, test result interpretation, multiple-criteria testing, and general questions. Section 3 looks at federal and state legal issues in program design and implementation. Topics of sections 4-12 include personnel, parent and community roles, English-as-a-Second-Language programs, student needs and special requirements, equal educational access considerations, sources of information and support, funding, and common terminology. Maine state guidelines and legal obligations concerning appropriate educational practices for LEP students are appended. (MSE)

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MAINE DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES
DIVISION OF CURRICULUM

FEDERAL PROJECTS FOR LANGUAGE MINORITIES

BOOK OF SOLUTIONS

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DEPARTMENT OF
EDUCATIONAL AND CULTURAL SERVICES

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Dear Maine Educator,

I am pleased to introduce you to this *Book of Solutions*. It is a compendium of responses to more than 100 of the most frequently asked questions from school personnel across Maine on a variety of topics affecting the education of the state's more than 6,000 language minority students.

The Office of Federal Projects for Language Minorities in the Division of Curriculum has compiled these items with generous help and astute guidance from the New England Multifunctional Resource Center at the University of Maine, the Evaluation Assistance Center at RMC Research (Hampton, NH), and the Office for Civil Rights in Boston.

The book has been divided into twelve sections for easy reference. Questions range from student testing to legal issues, to program development, to resources available to schools enrolling language minority students. Of course, the substance of this book, though comprehensive, is not exhaustive. Nevertheless, the compilation is an important first step in delineating responses to popular queries and in helping Maine school districts to comply with the state and federal guidelines affecting limited English proficient students.

I encourage you to call Dr. Barney Bérubé or Susan Parks at 289-5980 when a need exists to expand on the issues described or to secure greater clarification on those that may still appear vague. And you are further encouraged to let us know how this resource as well as others we have prepared may be improved.

With best wishes to all of you serving our language minority students,

Sincerely,

Eve M. Bither

Eve M. Bither
Commissioner

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SECTION I: COMMON ACRONYMS

COMMON ACRONYMS

BICS: Basic interpersonal communicative skills. This acronym refers to the kind of language skills children need to talk with teachers, other adults, and classmates on a daily basis in informal situations, such as in the classroom or on the playground. These skills may not be sufficient to allow limited English proficient children to excel in school.[1]

CALP: Cognitive academic language proficiency. This acronym refers to the kind of language skills related with school achievement. Literacy skills such as reading comprehension, decoding meaning from context, writing mechanics, writing proficiency, vocabulary development, and content-area comprehension are included in this aspect of language proficiency.[1]

ECE: Early childhood education.

ELP: English language proficiency. This acronym refers to the degree to which a minority language limited English proficient student can be documented (formally and informally) to possess basic interpersonal communicative skills (BICS) and cognitive academic language proficiency (CALP) in English. The BICS may be measured with an oral proficiency test and an interview. The CALP is most often measured on norm- or criterion-referenced tests of language, reading, writing, and other content-area subjects.[1]

ESL: English as a second language. This acronym refers to programs designed around variously structured teaching approaches for helping students whose first or native language is not English and who are limited English proficient to learn English in order to work or study in an English-speaking environment. An ESL program is one of several options school districts can choose to use to improve the student's English language skills ability to the extent that she/he can benefit from an education conducted in English.

ESEA: Elementary and Secondary Education Act.

FEP: Fully English proficient. FEP is an example of a language proficiency category which refers to students who are capable of functioning in an English-only educational environment in the areas of comprehension, speaking, reading, listening, and writing skills.

FES: Fluent English speaking. This acronym represents a well-developed proficiency in conversational English (BICS) as evidenced by scores on an oral English proficiency measure, an informal oral interview, oral language observation matrix, and formal speaking tasks.

ILP: Individual Learning Plan. This acronym refers to a process used by some states to define the special language services needs of LEP students. Each student has such a plan developed for him/her. Analogous to the Individual Education Plan (IEP) developed for handicapped students.

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[1] Taken from Office for Civil Rights draft of definitions.

LAC: Language Assessment Committee. This acronym refers to the committee mentioned in Maine Department of Educational and Cultural Services Administrative Letter No. 28 (3/17/88 or updated revisions) to coordinate and oversee the educational program of limited English proficient students enrolled in a school system.

L1: First language. This acronym refers to the he primary or native language (NL) the student acquired and which she/he normally uses; generally, but not always, the language usually used by the parents of the student.

L2: Second language. This acronym refers to the second or target language (TL) which a person (at any age) acquires, either formally through school instruction or informally through communication with speakers of that language.

LEA: Local education agency.

LEP: Limited English proficiency. This acronym refers to students with a primary language other than English and who may come from a background or home environment where a language other than English is routinely spoken. This may affect English proficiency. The student's proficiency level in English may create an obstacle and inhibit the student's ability to benefit from an education conducted in English. The English language proficiency level would need to be measured in all skill areas (formally and informally).

SEA: State education agency.

SpEd LEP: This acronym refers to students who are both in need of special education and are limited English proficient.

SECTION II: EVALUATION

Subsection A: Identification

1. **What should I do to determine whether or not a student is limited English proficient?**

In order to make decisions regarding the identification and classification of any student, it is necessary to obtain as much information as possible. Depending on the particular situation, the following information is recommended:

- *background information about the student, including both educational history and descriptive information, for guidance in interpreting test and other performance data;*
- *the student's dominant language, to identify the appropriate language(s) in which to conduct diagnostic and placement activities;*
- *the student's oral language proficiency in English, as a baseline for additional assessment and placement activities;*
- *the student's level of functioning in the dominant language, including both oral (listening/speaking) and written (reading/writing) language;*
- *the student's level of functioning in the second language, including both oral (listening/speaking) and written (reading/writing) language; and*
- *the student's level of functioning in relevant subject matter areas (e.g., mathematics, social studies, science) in the native language and in English, if appropriate.*

By combining these various pieces of information, a more accurate determination can be made about a student's present level of functioning and instructional needs.

2. **How can I tell whether to test a student in the native language or in English?**

Clarifying the purpose for conducting the testing activities and how the results will be used can help answer this question. For example, if you want to determine if a student has learned certain skills, such as in math or science, then the testing should be conducted in the language which will not interfere with the student being able to demonstrate his or her present level of learning. In most cases, this means testing the student in the same language in which (s)he received instruction. However, if the purpose of the testing is to establish the student's level of proficiency in English, then testing activities should be conducted in English. Similarly, if the purpose is to establish the level of proficiency in another language, then the testing should be done in that language. On the other hand, if the purpose of the testing is to help determine if the student has the skills necessary to move into the fully-English proficient classroom, then the testing should be conducted in the language in which instruction is provided in that classroom.

Bilingual services are required in limited English special education cases for evaluation. The examiner should know the language of the child being tested and be qualified in the area of special education in which the evaluation is being conducted. For special languages where no bilingual specialist is available, a translator who is fluent in the primary or home language of the child may be used along with a qualified special education evaluator. However, this alternative may be used only when the district can show that the search for a native language specialist has not been successful.

Subsection B: Definitions

1. What does the term "out-of-level" testing mean?

Out-of-level testing means administering a test level that is either above or below the level of the test recommended by the publisher as appropriate for the student's age or grade level. Testing out-of-level allows the administration of a functionally appropriate level of the test to be given to a student, rather than a test that is too hard or too easy. Out-of-level testing is an appropriate way to use standardized tests with limited English proficient students who are somewhat behind their age/grade peers in order to establish what skills have and have not yet been learned. If out-of-level testing is being considered, be sure to check the publisher's recommendations regarding how far out of level the test can actually be administered.

Caution should be exercised when using a test normed on a fully-fluent English population with those whose primary or home language is other than English. The degree of English proficiency should be appropriate to the level of English required to use the test meaningfully. The test administrator should be careful to ascertain that the test is measuring what it purports to measure rather than measuring the child's proficiency in English.

2. What is a standard score and how can it be used?

Standard scores are a way to describe the amount by which a student's score departs from the average. Unlike percentiles, standard scores are equal-interval scores, so one standard score point always represents the same number of raw score points. Because standard scores are equal-interval in nature, they can be added, subtracted, multiplied or used in other types of computations. Not all test publishers use the same standard score system, so they cannot be used to make comparisons across different tests.

A normal curve equivalent (NCE) is a special type of standard score, which has 99 equal intervals. The 50th NCE always corresponds to the 50th percentile; the 1st and 99th NCEs correspond to the 1st and 99th percentile. Because they are equal-interval scores and are the same across different tests, NCEs can be used as a basis for various computations across different tests, as well as within a test.

3. What does it mean when a score is reported in terms of a grade equivalent?

A grade equivalent is one way to describe the "grade placement" of a student based on his or her test performance. While grade equivalents can be used to describe general performance, they are often misleading and should be reported with caution. (A grade equivalent of 7.0 by a fifth grade students does not mean that the student can do 7th grade work.) Keep in mind also that most grade equivalents are estimates and that like percentiles, grade equivalents are not equal-interval scales.

4. Should I be as concerned about the validity of a test as well as reliability?

***Yes,** because validity indicates the degree to which a test measures what it claims to measure and is reported as a number ranging from 0.00 to 1.00. There are many different types of validity, including construct validity (how well the test measures the theoretical construct it claims to measure), content validity (whether the content of the test measures all aspects of the area addressed by the test) and predictive validity (how well the test scores predict performance on some other type of criterion). Whether selecting tests or using the results, it is important to know what the test purports to*

measure and how well it does so. The validity indices will provide information on the "how well." The best way to find out what the test measures is to carefully review the test manual, technical reports and the actual test items.

Knowing what a test actually measures is a very important step in appropriately using the results. This may seem like a simplistic statement, but this can be a problem in some areas. For example, language proficiency tests are generally constructed around particular philosophies of language acquisition and so two tests may assess very different skills. Knowing what a test actually measures allows the results to be used appropriately.

Subsection C: Standardized Tests

1. **Do LEP students have to take the Maine Educational Assessment? How can I find out more?**

Most Maine students from Grades 4, 8, and 11 take the MEA, which is administered every year. A LEP student may be excluded from taking the test if his/her language skills in English are so limited that (s)he cannot follow the test questions. If a LEP student needs individual coaching so (s)he will understand directions, such help may be provided. Also, LEP students may take only that part of the MEA that (s)he understands. A list of all LEP students excluded from the MEA is submitted to the MDECS Division of Assessment. Division personnel may be reached at 289-5991.

2. **My limited English proficient students are at an unfair disadvantage when they have to take a standardized test of any kind. What can I do to help them out?**

Most monolingual students, throughout the course of their schooling, take many standardized tests and over time, learn a variety of test-taking skills. Limited English proficient students often come from a different type of school system and so may not be familiar with some types of standardized tests. These students, even after they have learned enough English to take standardized tests, can be at a disadvantage simply due to their lack of experience in this area.

The best way to help these students is to systematically teach them test-taking skills throughout the school year. This does not mean "teaching to the test," but rather teaching the student specific test-taking skills (e.g., how to fill out a computer answer sheet, the meanings of test-specific vocabulary, ways to allocate time). Students who have learned important test-taking skills are better able to demonstrate their actual level of learning on standardized tests.

3. **What do standardized placement/diagnostic tests measure and when is it appropriate to use them?**

Standardized placement/diagnostic tests are developed to identify a student's strengths and weaknesses in specific content areas in order to determine what the student needs to learn. Because the intent is to pinpoint instructional needs, placement/diagnostic tests typically cover a narrow range of content in depth. Most placement/diagnostic tests also provide norms which indicate how students at a similar grade or age level performed on the test. This information can be helpful when making decisions regarding which skills should be taught.

The results of a placement/diagnostic test can be used to help identify a student's instructional needs and to place the student in the most appropriate setting for instructional purposes. As with other testing activities, it is important to ensure that the testing is conducted in a language which does not interfere with getting an accurate measure of the student's actual level of knowledge. Again, think about how the results will be used before deciding how to actually test the student.

4. **What do standardized achievement tests measure and when is it appropriate to use them?**

Standardized achievement tests sample a student's present level of learning across a range of general skill areas. The content is typically related to formal school learning experiences and because the intent is to sort and rank students, these tests cover a wide

range of topic areas. The norms for a standardized achievement test show how the "typical" mainstream students performed and can be used as a basis for determining how students in a program are progressing in relation to their fully-English proficient peers.

Because standardized achievement tests measure school learning, they can provide some very useful information for those who work with limited English proficient students. The results of standardized achievement tests can: provide a picture of overall progress over time; identify skills that students have learned and those which still need to be taught; and, help determine whether students are ready to move into the mainstream. Once students have the language skills necessary to take a standardized achievement test, the results can be used to ensure that students in a program are helped to develop skills which would allow them to benefit from an education conducted in English.

5. **Is there a quick way to tell if students have taken the appropriate level on a standardized test?**

If students, on the average, get one-third or fewer of the items correct on a test, they are probably guessing and should be given the next lower level of that test. Similarly, if students on the average get three-fourths or more of the items correct, they should probably be given the next higher level of the test.

If you are unsure as to which level of a standardized test to administer, check to see whether there is a locator test available. Many test publishers have locator tests which are short tests designed to help determine the appropriate test level for students.

6. **Can I use an interpreter to administer a standardized test to a student who does not speak English?**

Yes, but there are some guidelines to follow when doing so. *First, the interpreter must be trained in regard to the role of an interpreter and the test administration procedures. Second, the interpreter and the test administrator should be given background information about the student. Third, both the interpreter and the test administrator should take careful notes during the testing session. Fourth, the interpreter and test administrator should review both the student's response to the test items and the notes about the student after the testing session. Incorrect responses to items which were clearly culture or national origin bound should be disregarded. Fifth, the test norms* ***should not*** *be used when interpreting the student's scores. Look instead at raw scores and percent correct for various skill areas tested. Finally, if interpreters are used on a fairly regular basis, systematic training should be provided and observations made of the interpreters as a quality control check.*

7. **Can I have standardized tests translated from English into other languages?**

Yes, *but do so with extreme caution. Translating tests is a very complex process and one which requires trained personnel. Translating test items immediately changes them in a variety of ways, such as making items harder or easier. It is also very easy to change the entire meaning of an item through the translation process. If the translation process is going to be used, the translations should be done by trained personnel. Once the translation has been completed, to help ensure that the meaning of items has not been altered, another person should translate the new version back into English. Keep*

*in mind that when a translated version of a test is administered to a student, the test norms **should not** be used to interpret the scores, raw scores or percent correct should be used instead.*

Such translation of tests may invalidate them for the purposes for which they were designed. Some common and popular tests are already available in non-English versions. Such sources as The Tenth Mental Measurements Yearbook list such versions along with cautions about the normed languages. In addition, for example, one Spanish test may not be useful for all Spanish-speaking students because of variances among dialects or national differences. Many LEP children, while nominally possessing a non-English primary or home language, do not possess literacy skills in that language. For such students, a translation would be inappropriate.

Subsection D: Psychological and Intelligence Tests

1. **Are psychological and intelligence tests available in languages other than English?**

A limited number of standardized psychological and intelligence tests are available in Spanish and several Asian languages. (Refer to The Tenth Annual Mental Measurements Yearbook.) One alternative to consider is using various nonverbal psychological and intelligence tests, if one is not available in the language of interest.

2. **I have a limited English proficient student who may need special services. What steps should I take to determine whether or not the student's lack of English is the primary concern?**

This is a very special situation that should be approached with care. As a basis for making decisions about a student, the following steps should be taken.

- *Review the screening data collected when the student entered school. Please note that all children (including transfer students) must be screened within thirty days of entry into school. The screening involves checking hearing, vision, and health records to identify any potentially handicapping condition which would require referral to the P.E.T. for further evaluation.*

- *Collect background information about the student (e.g., educational experiences, descriptive information about the student, and descriptive information about the home, community, and native country). This may explain why a student is having problems in school and is also critical for correctly interpreting test and other performance data.*

- *Establish the student's oral language proficiency in English, to determine whether the present placement is the concern (e.g., the student simply does not have the English skills necessary to succeed in the present situation) and whether additional assessment activities can be conducted in English.*

- *Determine the student's dominant language, in order to conduct further testing in the most appropriate language.*

- *Determine the student's level of functioning in the dominant language, including both oral (listening, speaking) and written (reading/writing) skills, as appropriate.*

If a student's dominant language functioning is low and background information indicates that the student has had suitable educational opportunities for development, recommendation for further evaluation procedures would be appropriate. Notices to parents or guardians, under special education procedures should be in a language that LEP parents or guardians can understand, so that they might be able to give their informed consent for program changes affecting their children.

- *If the dominant language functioning is adequate, test the student in academic areas using tests administered in that language.*

If the student's score falls within a range close to what would be expected, given the student's level of schooling and other background information, then the student is probably not in need of special services. The student's lack of English is most likely the problem.

If the student scores low in academic areas or in regard to the use of the dominant language and background information indicates that the student has had opportunities for developmental through appropriate schooling, further evaluation is necessary.

For any students recommended for evaluation in regard to special education services, the guidelines of PL 94-142, as well as any procedures endorsed at the local level, should be carefully followed. Further assessments should be conducted in a manner that is non-biased and takes into account the student's level of English proficiency, background information, and educational history.

Subsection E: English Language Proficiency Tests

1. **What are the names of some recognized, frequently used English language proficiency tests? Where can I get copies of tests I am interested in using?**

There are a number of English language proficient tests available to school districts. Some of the ones that are used most frequently in Maine include: Bilingual Syntax Measure (BSM); Basic Inventory of Natural Language (BINL); Idea Proficiency Test (IPT); Language Assessment Battery (LAB); Language Assessment Scales (LAS); and the Maculaitis Assessment Program. Both the Maine Office of Federal Projects for Minority Languages in Augusta and the Evaluation Assistance Center-East (EAC-East) in Hampton, New Hampshire have copies of frequently used tests that are available for examination to school personnel who visit their offices. In Maine, these tests may be borrowed on free loan for up to three weeks. In addition, test publishers will often supply specimen copies of tests either free of charge or at minimal cost.

2. **What do oral language proficiency tests measure and when is it appropriate to use them?**

Oral language proficiency tests measure how well a student is functioning in regard to a specific spoken language. Depending on the test, this is done in a variety of ways, ranging from structured interviews to the presentation of pictures with discussions. These tests cover a wide range of language acquisition skills, ranging from those necessary for conducting basic interpersonal communications to those required for conducting more difficult activities, such as school learning.

In general, the results of an oral language proficiency test can be used to help determine whether or not a student is limited English proficient. However, keep in mind that the results only make a general classification about selected listening and speaking skills. The results should not be over-interpreted. Additionally, because of the range of skills assessed in different oral language proficiency tests, it is very important to carefully review the skills tested before using the results in any way.

*One other very important caution: the results of an oral language proficiency test **do not** provide any information regarding the student's ability to read or write; in some cases, the test may not even cover the more complex listening and speaking skills necessary for school learning. The results of oral language proficiency tests **should not** be used as the sole criterion for determining whether a student needs services or is ready to move into the mainstream setting.*

Subsection F: Comparison

1. **When is it appropriate to compare limited English proficient students to monolingual English-speaking students using tests administered in English?**

One of the major goals of programs serving limited English proficient students is to prepare them for academic work in fully English proficient classrooms. One indication that limited English proficient students are ready to be placed in mainstream classes without special language services is their ability to demonstrate the requisite skills in English. In this case, the appropriate comparison group to use for judging limited English proficient students' performance would be their monolingual English-speaking peers. This will give an indication of whether or not the limited English proficient students have English language skills necessary to benefit from an education conducted in English.

Subsection G: Interpretation of Test Results

1. Do I always have to use the test norms when interpreting a student's scores?

No. Test scores can be used without comparing the scores to the test norms. If the intent of the testing is to systematically determine what the student knows and does not know, can and cannot do, then the test results can be very helpful, even without the norms. In this case, results should be used by reviewing performance on each skill and subskill covered on the test. In many cases, it is also helpful to review performance on individual items. This information can provide a good picture of student progress and specific instructional needs.

2. Are there times when norms should not be used to interpret test results?

*Yes. There are some instances when the test norms should not be used to help interpret student test scores. If the testing procedures were altered in any way so they did not follow those recommended by the test publisher (e.g., students were allowed more time, certain items were interpreted, the entire test was translated), then the test norms **should not** be used to help interpret the results. Additionally, test norms should not be used to compare very dissimilar groups in certain ways. For example, it would not be advisable to evaluate the annual rate of progress in reading by comparing the test scores of limited English proficient students to the rate of progress of monolingual students, as reflected by the test norms. However, it is very appropriate to use the test norms to determine whether limited English proficient students are learning the skills necessary to benefit from an education conducted in English.*

3. How and when can I use raw scores?

*Raw scores, or the number of correct responses obtained by the student, can be used to assess mastery in a given skill area. For example, a student who scores 8 of 10 items correct on the punctuation subsection of a standardized test has probably mastered the skills tested. However, raw scores **should not** be used to make comparisons across different tests or even across subtests within a test.*

4. How and when can I use percentiles?

*Percentiles range from 1 to 99 and indicate the percentage of students scoring at or lower than the test score in question. They are a good way to describe a student's relative position to the entire group of students who took the same test. For example, a score of the 75th percentile would mean that 75 percent of the students who took the test scored at or below that point. When using percentiles, keep in mind that percentiles are not equal-interval scales; that is, the distance from one percentile to the next is not always the same size. In fact, the distance from one percentile point to the next is very large at the ends of the scale and very close toward the middle. A student who moves from the 13th to the 23rd percentile **cannot** be compared to the student who moves from the 43rd to the 53rd percentile. Because percentiles are not equal-interval scores, they cannot be added, averaged, or used in other types of computations.*

5. Is it important for me to know what the reliability of a test is before using the results?

Yes, because the reliability of a test is a good indication of how much confidence should be placed in the resulting test score. The reliability of a test indicates the degree to which a test consistently measures what it claims to measure. The higher the test

reliability, the more likely it is that a student's test score will remain fairly consistent over repeated testings with the same or a parallel form of the test. Reliability is reported as a number from 0.00 to 1.00 and the higher the number, the higher the reliability.

When considering a test's reliability, remember that different types of tests typically have higher, or lower, reliabilities than others. In general, standardized achievement tests will have a reliability of .85 or higher. In comparison, as an example, oral language tests generally report much lower reliabilities. This difference is due partly in regard to the constructs being measured and partly due to the test developmental process.

Since the importance of a test's reliability increases with the significance of the decision to be made, it is necessary to consider an instrument's reliability when deciding how it will be used. For example, deciding whether a student is ready to exit a program is a very important decision and should be based, in part, on a highly reliable test. On the other hand, obtaining an overall picture of the student's level of proficiency in oral English, as part of the general placement process, is not so critical a decision and so a lower reliability may not be particularly important.

Subsection H: Multiple Criteria Evaluation

1. **I want to use multiple criteria to ensure a comprehensive evaluation of my limited English proficient students. What types of measures should I include?**

   The most commonly used evaluation criterion is ***test scores****, and this type of information is critical for a comprehensive evaluation. Scores from a variety of instruments should be considered, including standardized achievement tests, placement/diagnostic tests, language proficiency measures, and informal assessment devices. However, test scores alone cannot provide a complete picture of a student's instructional needs; it is necessary to collect various types of descriptive information as well.* ***Existing records*** *including student grades, teacher comments, attendance rates, referrals for discipline problems, parental attendance at school activities, participation in extracurricular or community activities, school health screening activities, and any other existing documentation can help round out the picture about a student. Other types of measures to consider as criteria for a comprehensive evaluation include* ***questionnaires, oral interviews****, and* ***observations****. By using a variety of criteria and multiple sources of data, a more comprehensive and accurate evaluation can be ensured.*

2. **Why is it so important to use multiple criteria for making decisions about existing/reclassifying limited English proficient students?**

   The decision to exit or reclassify a limited English proficient student can have tremendous impact on that student's educational and personal future. If a student is misclassified or exited from a program prematurely and without the English language skills necessary to benefit from an education conducted in English, (s)he is likely to encounter difficulties in the fully English proficient classroom. Test scores alone should not be used to make such an important decision, especially given the current state of the art of testing limited English proficient students. Therefore, in addition to standardized test scores, it is necessary to use a variety of other data sources (grades in other classes if the student is partially mainstreamed, opinions of other teachers, observations of the student in various learning situations, interview with the student) to help ensure that the decision will accurately predict a student's ability to benefit from an education conducted in English.

3. **What information should be used when deciding whether a student is ready to move from a special language services (e.g., ESL, bilingual program) classroom into a classroom with a fully English-proficient population?**

   Deciding whether or not a student is ready to move into the mainstream is a critical decision and one which must be made with care. It is important to take into consideration a variety of information including:

   - *performance on standardized tests, including reading, language arts, and appropriate content areas (e.g., mathematics, science, social studies);*
   - *grades in other classes, especially those courses which the student is taking with a fully English-proficient population;*
   - *teacher ratings of the student's skills necessary to benefit from an education conducted in English; and*

- *interviews with the student, covering academic, affective and communication skills necessary to benefit from an education conducted in English.*

If there is some doubt about whether or not the student has the skills necessary to benefit from an education conducted in English, it can be helpful to observe the student in a variety of academic settings to ensure that key skills have been mastered. Observations may also be necessary with younger students to determine whether they can, in fact, interact successfully in the classroom with a fully English-fluent population.

*Regardless of the criteria used to make decisions regarding whether to mainstream a student, keep in mind that multiple criteria should always be used. Decisions to mainstream a student should **not** be made on a single criterion, such as the results of an oral language proficiency test. Exit criteria should include a variety of information to ensure that the student has developed the language skills necessary to use English for school learning.*

Please note that LEP students may be mainstreamed with monolingual English peers in non-academic situations (e.g., physical education, music, art) earlier than in academic ones. LEP students should not be isolated or segregated any more than is necessary to ensure their speedy ability to benefit from an education conducted in English. Separation of LEP students should meet a valid educational purpose.

Subsection I: General

1. **What kind of information can be obtained by testing limited English proficient students?**

Tests serve many important purposes in the educational process, and there are a variety of questions that can be addressed with test information. In regard to overall program issues, test results can be used to:

- *help determine if programs for limited English proficient students are needed, and to identify the general types of programs that would meet the existing educational needs;*
- *identify instructional components that are effective, as well as areas where program improvements might be required; and*
- *describe to other audiences the effects a program had on participants, in terms of knowledge attained and relevant changes in attitudes.*

At the student level, test results can be used:

- *to identify and place students in the most appropriate types of programs;*
- *to plan instructional programs to be most responsive to individual and group needs, both on a short- and long-term basis; and*
- *as part of the exit criteria, to help determine whether students have the academic skills necessary to benefit from an education conducted in English.*

Each of these uses, however, can only be accomplished if the test itself is reliable, valid, and can provide the type(s) of information suitable for the intended use.

2. **I have a prekindergarten student who does not speak much English. The classroom teacher wants to know if the child has learned basic readiness skills. How can this be determined?**

One of the best ways to determine this is to administer some type of readiness mastery test. In this case, the student is asked to demonstrate certain readiness skills (point to the left; determine whether two shapes are the same or different; complete various psychomotor tasks) and for each skill the student is rated as having attained that skill or not. One very important caution here has to do with the language used to assess the student's present level of learning: the language must be one which the student fully understands. The student must be able to understand the language in order to fulfill the request (e.g., point to the toy on the left; touch the biggest box). If the student does not understand the language, then the test results will be virtually meaningless.

There are many commercially published readiness tests which are suitable for use with limited English proficient children. (For more information on these tests, contact the EAC-East). Additionally, many preschool programs have locally developed skills listings, which they use as a basis for assessing student needs. This type of skills checklist could be adapted for limited English proficient students by administering it in the child's dominant language, by ascertaining that the child has understood the instructions and by ensuring that it is culture/national origin fair [or bias-free].

SECTION III: LEGAL ISSUES

Subsection B: Maine State Law

1. What is the maximum age for which LEP students must be provided ESL services?

As long as LEP students are attending public schools in Maine, special langauge services (e.g., ESL, bilingual) must be made available to them. These services are available to students ages 5 to 20. Many schools permit students over age 20 who are already enrolled in high school to continue until graduation. The school year goes from July 1 of one calendar year to June 30 of the next calendar year. Adult education programs in ESL are also available to students over 20 and others who also are no longer attending day school. They arrange this through their local school system.

Subsection A: Federal Law

1. **A non-English speaking student just moved into town and is living with a friend. Are we required to provide services?**

   From a federal posture, the U.S. Office for Civil Rights of the U.S. Department of Education would be concerned that every limited English proficient child needing services be provided the special language services necessary for the student to benefit from an education conducted in English. OCR does not address the concerns of exchange students or those who reside in the U.S. on temporary visa in regard to problems connected to their visa status. However, no person in the United States may be discriminated against on the basis of national origin by recipients of federal financial assistance.

   Maine state law limits eligibility to free public education to residency (student resides with parent, legal guardian, or is emancipated) and appropriate age (5 to 20 years of age).

2. **Does OCR monitor migrant student programs?**

   No, OCR does not have jurisdiction over migrants as a group. However, migrants whose national origin is other than the U.S. are within OCR's jurisdiction. In addition, many migrants are racial minorities and are thus within the jurisdiction of OCR.

3. **Does OCR investigate complaints stemming from curricular materials--notably those that appear biased against minorities or those that are replete with ethnic stereotypes?**

   OCR does not judge the content of curricular materials in its investigations. Therefore, issues of stereotype are not within their judgmental purview except where the effect is discriminatory. However, OCR would take notice of the quality and quantity of instructional materials that are significantly less adequate than those materials that fluent English proficient students have where the difference appears to result in less adequate services. In other words, OCR would ask if the district is claiming to run a special language services program without any instructional materials.

4. **A student has told me that she is not allowed to speak French on the school grounds. Is this permissible?**

   No, this is a violation of Title VI of the Civil Rights Act. Rules that stipulate, "Speak only English," are grounds for complaint to the Office for Civil Rights. Within certain classes, for specified instructional purposes, English-only rules could be implemented for that portion of the class where use of English only would be the sole method of achieving the educational objective. Such usages should be carefully scrutinized. The courts have said that English-only rules are primarily an issue of safety where the students speaking a language other than English might subject themselves or other students to a hazardous situation (e.g., students "spotting" for one another in gymnastics). There should not be a blanket English-only rule.

5. **I believe there are inequities and injustices happening toward minorities in my school district. Since my job may be at stake, it is best I not "make waves." Who, then, can complain against an alleged illegality to the Office for Civil Rights?**

   Anyone may complain to OCR about an alleged violation of a student's civil rights. In many instances, you the ESL teacher or principal, are in the best position to voice your

concerns or to file a complaint because you are the most knowledgeable about the specific situation. Even if you do not complain, OCR would undoubtedly solicit testimony from you if ever they investigated a complaint or performed a routine compliance review.

An important clause is in the law! You have "protected behavior" in your role as an advocate for the civil rights of any student. Retaliation or harassment is illegal.

> *No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceedings arising thereunder. (Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000D,200d-1)*

6. Can we use Chapter I funds and personnel to provide support services for LEP students?

An LEA may not use Chapter 1 funds to provide special educational services that the LEA is required to provide to children of limited English-speaking proficiency under Federal or State law, including provision of services required by Lau v. Nichols, a case in which the Supreme Court held that the San Francisco public schools had violated Title VI of the Civil Rights Act of 1964 by requiring limited-English proficient Chinese children to attend classes taught exclusively in English. The level of services necessary to meet Federal, State, or Lau requirements must be provided from non-Chapter 1 sources. An LEA may use Chapter 1 funds to provide services to children of limited-English-speaking proficiency--without violating the supplement, not supplant requirement--if the Chapter 1 services have all of the following characteristics:

- *The LEA designs its Chapter 1 project to address special needs resulting from educational deprivation, not needs relating solely to a child having limited English-speaking proficiency;*
- *The LEA sets overall project objectives that do not distinguish between participants of limited English-speaking proficiency and other participants;*
- *Through the use of uniform criteria, the LEA selects children for participation on the basis of educational deprivation, not on the basis of limited English-speaking proficiency; and*
- *The LEA provides Chapter 1 services taking into account the needs and abilities of individual participants but without distinguishing generally between children of limited English-speaking proficiency and other children with respect to the instruction provided. The LEA's may use Chapter 1 funds to provide staff who are bilingual and secure appropriate materials, when such staff and materials are necessary to address the educational deprivation of children to be served.**

It should be noted, then, that Chapter 1 is not an ESL program. At the same time, an ESL program is not a Chapter 1 program. A Chapter 1 program may supplement but not supplant the regular classroom instruction. An ESL program may supplant or supplement the regular classroom instruction.

*Taken from U.S. Dept. of Education Nonregulatory Guidance for Chapter 1 (December 1986)

7. **Our vocational education school says that certain children cannot be accepted at the center because they are not sufficiently competent in English which could pose a safety hazard for them. Is this an illegal denial of access?**

Yes. Steps must be taken to open all vocational programs to national origin minority children. Participation that is restricted by reason of limited English proficiency due to national origin may be a violation of Title VI of the Civil Rights Act (Title 34 100, Appendix B- Part IV - L) and of the Vocational Education Guidelines.

There are court decisions focusing on employment contexts which address issues of English only rules imposed in the workplace for purposes of safety. However, in an educational context, limited English proficient students should receive instruction (e.g., demonstrations) in good safety practices and in the key safety vocabulary necessary. This safety instructional component is part of many vocational curricula. It might behoove the vocational education instructor to learn some key safety vocabulary in the minority language so as to ensure that the classroom safety is maintained. The important guideline is for the district to ensure that the LEP students have the necessary skills to benefit from a vocational education conducted in English.

8. **The ESL resource room is located across town. May we assess these LEP children a small fee to cover the cost of transportation?**

All students attending public schools are entitled to free public education. "Every person within the age limitations prescribed by state statutes shall be provided an opportunity to receive the benefits of a free public education." (MRSA 20-A, 2.2) Certainly, national origin minority children cannot be singled out to pay for services directly relating to their instructional needs. Costs must be borne by the school district to the same extent that the district bears costs for all children (Title VI 100.3). If other children are not assessed special transportation costs, then LEP children should not be assessed those costs either.

9. **Are post-secondary vocational institutions required to send out their recruitment notices in the parents' native language if there is a community of national origin minority persons within its service area?**

If the service area of a recipient of federal funding "contains a community of national origin minority persons with limited English language skills, public notification materials must be disseminated to that community in its language and must state that recipients will take steps to assure that the lack of English language skills will not be a barrier to admission and participation in vocational education programs." (Vocational Education Guidelines - V.O. Public Notification). Use of multi-media recruitment notices in the parents' native language would also be approprite.

10. **What is the legal basis for the Lau plan and special language services (e.g., ESL, bilingual)?**

A Lau plan gets its name from the landmark 1974 U.S. Supreme Court decision, Lau vs. Nichols. The U.S. Supreme Court stated that school systems must take action to see that limited English proficient national origin minority students are able to benefit from an education conducted in English. The high court did not prescribe a specific program. It stated that teaching English to limited English proficient children is one choice; giving instruction in the student's native language is another. There may be others. See also questions 11 and 13 in this subsection.

11. **What must the school district, by law, do to serve LEP students?**

At the state level:

Currently there is no specific legislation targeted for equal educational access for language minority children in Maine. Procedures for schools to follow in serving these children are addressed in DECS Administrative Letter No. 28 (see Appendix).

At the federal level:

The United States Congress addressed the subject of discrimination against linguistic minority students in the Equal Education Opportunity Act of 1974, 20 U.S.C. 1703.

> *No state shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by ... (f) the failure by an educational agency to overcome language barriers that impede equal participation by its students in its instructional programs.*

Congress acted to ensure that all public schools would comply with this act, not just those receiving federal funds. This statute recognizes the state's role in assuring equal educational opportunity for national origin minority students. The statute also stresses that the failure of an educational agency to rectify appropriately a limited English proficient student's English competencies is a denial of equal educational opportunity.

Almost all public schools in the U.S. receive federal financial assistance. All such schools are covered by Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of national origin. Students whose limited English proficiency is based on their national origin must not be denied the necessary educational services to enable them to benefit from the school's educational program.

12. **The only space available for ESL tutoring is backstage (no windows). Is this space arrangement, given our severe space limitations, legal?**

The burden of proof of acceptability of physical space is on the school district. A helpful rule is to consider this space as it compares to that used by non-minority children. If all children, regardless of national origin, must utilize this space, then it is probable that such space is not a denial of equal education access. See question 13 in this subsection.

Further, the Equal Educational Opportunity Act of 1974 states that "a school district which fails to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional program is denying equal educational opportunity to language minority students." A more enticing environment such as a regular classroom may promote equal participation under this scenario.

13. **What can happen to our district if we do not comply with federal guidelines for services to LEP children? When we are on-site audited, will OCR be looking at our ESL program as well?**

The federal government encourages all states to set their own priorities and program designs that serve children of limited English proficiency. However, the burden of proof

that those programs are effective is on the school district (Castenada v. Pickard). Such programs may be challenged by a would-be complainant to the U.S. Office for Civil Rights (OCR - Boston Office) which will follow through on any complaint. ESL programs would be examined for their appropriateness and adequacy in the event of an audit by OCR.

If OCR finds that limited English proficient national origin minority children have been discriminated against by the district, it will attempt to bring the district into compliance with the federal law through voluntary negotiations. The district will be asked to correct the problem(s) found and to sign a corrective action plan. If this fails, OCR may issue a non-compliance letter which puts the district on notice that corrective action must be taken. If they do not take corrective action, OCR can take the district to an administrative enforcement hearing where the school district's federal funding could be terminated.

Section 557 of the Civil Rights Restoration Act (March 1988) extends the enforcement of a number of civil rights laws which were restricted by a 1984 Supreme Court decision, Grove City v. Bell. These laws prohibit discrimination on the basis of age, sex, race, color, national origin, and handicap in all programs receiving federal funding. The Restoration Act amends the civil rights laws by clarifying the definition of "program or activity" to ensure that discrimination is prohibited throughout the entire institution or agency if any part of the institution or agency receives federal assistance. The act covers state and local agencies, school systems, and corporations and other private groups.

14. Do we have to provide services to undocumented immigrants?

Yes. Legislation handed down from the U.S. Supreme Court in Plyler v. Doe stipulates that all children enrolled in American public schools must be provided free public education, including equal access to appropriate instructional services. Status of parental documentation may not be taken into account in deciding access to services.

15. ESL teachers are only available during lunch and after school. Is this arrangement legal?

Probably not. Title VI of the Civil Rights Act states that a recipient of federal funds may not "deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program." (ss100.3 vi) To meet a curricular need for minority children that is inconsistent with practices used for non-minority children appears to violate this provision in the law.

If the student or parents request that special language services (e.g., ESL, bilingual) take place during non-curricular classes or after school, it would be advisable for the school to obtain and keep on file a written signed consent form specifying the request and times services are provided.

16. My program operates under federal Title VII funds. Do I have to meet any special testing or program evaluation requirements?

Yes. *There are a number of testing and program evaluation requirements which a Title VII funded project must meet, including: the extent of educational progress achieved through the program measured as appropriate by (a) tests of academic achievement in English language arts, and where appropriate, second language arts; (b) tests of*

academic achievement in subject matter areas; and (c) changes in the rate of student grade retention, dropout, absenteeism, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions. Testing activities should be conducted on an annual basis (fall-to-fall or spring-to-spring).

These same requirements also include a number of general evaluation requirements, such as the use of an evaluation design which includes a measure of educational progress of project participants when measured against a non-project comparison group; the use of reliable and valid evaluation instruments and procedures; and other important standards. For more information on these requirements or assistance in implementing them at the project level, contact the Evaluation Assistance Center-East (1-800-258-0802).

17. **Are private schools obligated to follow non-discrimination laws and to provide special language services (e.g., ESL, bilingual) to limited English proficient national origin-minority language students?**

A person investigating this issue would need to obtain information about the following:

- *Does the private school receive school lunch funds from the U.S. Department of Agriculture?*
- *Does the private school avail itself of Chapter 1 services?*
- *Does the private school avail itself of special education services provided by the public school district?*
- *Does the private school have a tax exempt status from the Internal Revenue Service?*
- *Does the private school receive books, furniture, etc. from the public school district?*
- *Does the private school co-write grants with the public school district?*
- *Are students from the public school district tuitioned by the district to the private school for various reasons?*

If any of these conditions apply to the private school, that school will need to contact the Maine Department of Educational and Cultural Services or the U.S. Department of Education Office for Civil Rights and determine if the school is obligated to follow non-discrimination laws and to provide special language services (e.g., ESL, bilingual) to its LEP national origin-minority language students.

SECTION IV: PERSONNEL

1. **What are some ideal qualifications for ESL teachers/tutors who do not carry an endorsement? Do you have any suggestions for locating tutors?**

Although OCR prefers that limited English proficient national origin minority students be provided special language support services (e.g. ESL) by a certificated and appropriately trained (i.e., ESL, bilingual) teacher, their office acknowledges that the fewer LEP students there are in a district, the less formal the special language services provided have to be. However, the personnel working with the low-incidence LEP population in a district must be given the opportunity and support to take advantage of professional growth opportunities in their area of instruction. The goal of any chosen special language services program is to ensure that LEP students acquire the skills necessary to benefit from an education conducted in English. Teacher training in the theories and methodologies for ESL would help the district reach that goal.

a. *The ideal qualifications for ESL tutors who do not carry an endorsement would be:*
   1. *Experience in a second language learning setting*
   2. *Experience in a non-English speaking culture*
   3. *Experience working effectively with children in an instructional setting*
   4. *Possession of a knowledge of skills instructional methods*
   5. *Possession of a working knowledge of ESL, second language acquisition, and LEP students.*

b. *In order to locate a qualified ESL tutor, a school district might contact prospective tutors through:*

   1. *Senior citizen groups (e.g., AARP)*
   2. *Newspaper advertisements*
   3. *A retired teachers' organization*
   4. *A pool of substitute teachers or other part-time tutors employed by the district*
   5. *A community volunteer organization*
   6. *A local ethnic or international organization*
   7. *Volunteers in public schools*
   8. *A university or college work/study program or education department tutor list*
   9. *A local ecumenical council*
   10. *Returned Peace Corps Volunteers (RPCV) organizations*
   11. *Literacy Volunteers of America*
   12. *Host families for international students*
   13. *Community leaders*
   14. *Refugee service groups*
   15. *Maine Department of Educational and Cultural Services Office of Federal Projects for Minority Languages*
   16. *Maine State Coordinator for Refugee Resettlement*

2. **Is there somewhere we could go to observe a full-scale ESL program at work?**

There are several full-scale ESL programs in Maine. Populations of recent immigrant children shift quickly. Some programs have as many as 200 children enrolled; others may have as few as one child. More than 50 schools in Maine have experience with the instruction of English as a second language and more than 60 language groups have been served. Since these programs and their personnel are so mobile, it is not advisable that specific towns be listed here. However, an inquiry to the Office of Federal Projects for Language Minorities about a possible model site near your town is welcome. We will do our best to route you to a replicable program, dependent on your child(ren)'s needs. Call us at 289-5980.

3. **What would be the cut-off point between having a part-time special language services tutor/teacher and a full-time ESL teacher? Can a certified teacher employed as an ESL tutor create a full-time position for herself/himself? How? Are prototypes of job proposals available?**

OCR prefers that limited English proficient national origin minority students be provided special language services (e.g., ESL, bilingual) by a certified and appropriately trained (e.g., ESL, bilingual) teacher. A school district, regardless of having a low-incidence LEP student population, should pool its resources to provide quality, appropriate special language services to those children to ensure that they acquire the skills necessary to benefit from an education conducted in English. The children's education should not suffer because they are in a low-incidence population.

a. *The cut-off point determination would depend on several factors. Those factors, to name a few, would be: the English language proficiency level spread of the LEP students being provided ESL services; the number of students receiving ESL services; the grade levels of the students; and the geographical lay-out of the school district. For a beginning ESL student, the tutor would need to spend 2-4 hours of time with that student. If the tutor also has students at other proficiency and grade levels, which is likely, and if the tutor is itinerant (traveling time between schools needed), (s)he might not be able to provide adequate services to the other students on a daily basis.*

A LEP population of between 10 and 12 students (in light of the above-mentioned factors) would merit the hiring of a full-time ESL teacher. The teacher could be employed in an itinerant capacity or have a Lau core program to which students are transported for certain time allotments during the school day. Another option would be for 2 school districts to form a consortium to share a special language services (e.g., ESL) teacher and provide the teacher with classroom spaces in both districts.

b. *Speak with the DECS ESL consultant, your administrative liaison, or superintendent. Yes, we have some prototypes of job proposals/descriptions (available upon request).*

4. **How skilled in ESL does one have to be to teach LEP children?**

Regardless of the organization of an English program for LEP students, teachers will find the following competencies important to successfully providing appropriate services. English language development teachers should have:

1. insight into the cultural and linguistic backgrounds as well as the academic experiences of their pupils;

2. a special knowledge of the sounds, syntax, semantics, and prosody in their own language to help their students learn these features as well as comparisons/contrasts between the linguistic features in the target language and native language;

3. experience in the methodology of successful second-language instruction;

4. contact with individual or agency resources available to teachers of non-English-speaking students;

5. knowledge of the current issues and research in second-language pedagogy, psycholinguistics, bilingual education, and applied linguistics;

6. awareness of the dynamics of individualized instruction and how to use them in ESL instruction;

7. skills for adapting and developing relevant instructional materials for ESL instruction;

8. familiarity with ways to provide a learning atmosphere that promotes not only second-language skills but also enhances the sense of self in second-language students.

All these skills are necessary because: ESL teachers often must provide instruction to students with a wide range of abilities, experiences, and levels in both their native and second language; immigrant students may register throughout the school year; and ESL teachers often are liaisons between the non-English-speaking students and their English-language teachers.

Recent studies substantiate the existence of a positive relationship between English language proficiency and academic achievement measured in English. These studies and others establish the necessity of a level of quality and quantity of English competency plus academic skill for achievement in English-only instruction.

5. Are professional teacher certificates and ESL endorsement required in Maine?

ESL or bilingual education teachers in Maine are required to:

1. Hold a Professional teachers' certificate

2. Carry an endorsement in an area other than ESL or bilingual education (21 credits)

3. Carry an endorsement in either ESL or bilingual education (21 credits)

4. Pass the National Teachers' Exam

A classroom teacher may decide to combine regular classroom teaching responsibilities with special language services (e.g., ESL, bilingual). This decision would merit his/her participation in college-level coursework pertaining to the district's special language services program format. In this way, a district could utilize a certificated teacher to provide needed services to LEP students.

6. Is there a professional organization for ESL teachers in this region?

Yes, there is a professional organization for ESL teachers. It is the Northern New England Teachers of English to Speakers of Other Languages (NNE-TESOL). The annual membership fee is currently set at $10.00. The Maine representatives of NNE-TESOL are: Mr. Val Hart - 772-2308 and Mr. Don Bouchard - 787-7261. NNE-TESOL holds two ESL conferences annually. One is in the fall; the other in the spring.

7. **What school personnel would be good members for the language assessment committee?**

In accordance with the guidelines presented in Administrative Letter #28 (see Appendix), a district should form a committee to develop a plan for assessment and monitoring of LEP students. Such a team could include but not be limited to the following: (a) teacher representative(s) from the student' grade level or anticipated grade placement, especially those who teach the content areas of math, science, social studies, and English language arts; (b) a reading resource person or director of special student services if the school employs one; (c) a native speaker of the child's first language if one can be located; (d) the ESL tutor or teacher; (e) a building level administrator; (f) a school counselor; (g) the parents or guardians; and (h) a speech/language pathologist. This last is recommended ONLY when an ESL specialist is not available. Caution should be exercised here not to imply that the limited English Proficient student is a case for special education under PL 94-142. Speech and language pathologists receive training in language assessment, normal and abnormal language acquisition, and linguistics and may be part of this committee as language resource persons.

When notifying the parents or guardians of LEP students, notification should be given in a language the parents or guardians can comprehend. If necessary, an interpreter should be present at language assessment committee meetings when the parents are in attendance.

8. **For teachers new to the profession, as an absolute minimum, what would they need to prepare them for the likely situation that they will be teaching LEP children sometime in their career?**

Census projections indicate that by the year 2000 nearly 1/3 of the U.S. population will be speakers of English as a second language. It is more than likely that most teachers will encounter students of limited English background. As a minimum, teacher-aspirants as well as teachers currently in-service ought to consider taking a course in multicultural education, a course in basic linguistics and language development/ acquisition, and should consider attending workshops and conferences offered in ESL as well as culture-specific topics. Most libraries have some resources dealing with multiculturalism, bilingualism and ESL. Information on workshops, conferences, courses and resource materials is available from the agencies listed in Section IX question #2.

SECTION V: PARENTS AND COMMUNITY

1. **What can parents do to ensure their LEP children receive an equitable education including proper special language services (e.g., ESL, bilingual)?**

Parents and school personnel are partners in the education of children. The responsibility of administrators and teachers who are involved in this partnership is a function of their specific roles. Roles parents can actively play in the education of their children include, but are not limited to: learners, teachers, decision-makers, counselors, resources, and agents of social change. The key school communicator or liaison with parents must be able to speak the parent's language as well as have a minimal knowledge of his/her culture. Civil rights legislation enables parents to file formal complaints against schools whose programs for their children are perceived as inadequate.

Parental non-involvement is most often attributable to: a language barrier, lack of transportation, economic reasons, and feelings of alienation. Issues on majority and minority parent involvement in schools are complicated and varied; some school personnel are reluctant to share their power in decision-making. Mandating parental involvement in programs such as bilingual education does not guarantee success. What seems to make a difference are such factors as community and school support for appropriate educational services for their LEP children, teachers' active involvement with parents, and parents' attendance at school and board meetings. Parental involvement only in crises are typically at the core of many court cases from 1970-79 nationally. Regrettably these methods have been confrontational, albeit effective. (See also Section III, subsection A, question #13)

2. **Do parents need to be informed when their LEP children are reclassified to a fully English proficient classroom setting?**

OCR very much wants the district to have written formal procedures for appropriate educational practices for limited English proficient students. These procedures (Lau plan) would naturally include the exit criteria required for reclassification of LEP students who possess the necessary skills to benefit from an education conducted in English.

Just as with any student who has unique needs, the district should notify the parents of changes in the instructional programming for that student. A school district or language assessment committee will notify the parent(s) or guardian(s) of the LEP student of the reclassification and new instructional placement.

1. Written notification should be in a language the parent or guardian can comprehend.

2. Notification to the parents should include information of their legal right to challenge the reclassification of their child.

3. Minutes of the meeting and registration of attendance at the meeting should be retained in the student's language progress file.

See DECS Administrative Letter #28 in Appendix.

3. **Should we suggest that the parents of limited English proficient children speak only English to the children at home?**

This would appear to be a natural and expected recommendation to make; however, if one thinks about it, it is often an unreasonable request to make of the child's parents especially if they are also limited English proficient and are in the same position as the LEP student; that is, also learning English as a second language. This is not to say that we should not encourage the use of English at home, but it is also extremely important to most recent immigrants and refugees that they be allowed to maintain their native language and customs in the home. It can be affectively detrimental to the LEP students to be alienated from their native language in the home environment. For the most part, the parents know how important it is for them and their children to learn English in order to succeed and survive in the U.S.

LEP students and LEP parents need English language models and instruction in order to learn the language but we should be careful by our attitudes and statements not to disparage the child(ren)'s native language and customs. Remember that eventually these will be people gifted with bilingualism as they become proficient in English while maintaining their native language abilities!

There are exceptions to this general approach. In the case of a limited English proficient student who is also classified (by appropriate and culturally-unbiased assessment or physical examination) as severely hearing impaired, mentally handicapped or language impaired, then it may be determined that the best course of intervention is to develop only one language (e.g., native language, English). Even in these cases, the extent of the disability and the extent of language proficiency in the native language must be evaluated in order to arrive at an appropriate educational plan. It would be advisable to consult with the DECS' Division of Special Education at 289-5950 if a situation such as the one described above were to arise.

4. **What recourse do parents have if they feel their child(ren) is/are not receiving proper special language services (e.g., ESL, bilingual) in the school?**

Parents/guardians of LEP students are an essential link in the ESL learning process. Although OCR encourages parents to attempt to solve these possible problems at the local level first, they have the right to file a complaint with OCR at any time (see address below).

If parents/guardians feel that their child is not receiving proper special language services (e.g., ESL, bilingual) in the school, they should begin at the school level by notifying the language assessment committee (LAC) contact person and ask that a meeting of the committee be convened. If the parents are limited English proficient, an interpreter will need to be brought in to facilitate the proceedings. If the parents do not gain satisfaction for or further understanding of their concerns, they will want to then go through the heirarchical "chain of command" in the school district (principal, special language services director, superintendent, school board).

If, after these administrators have been contacted, the parents still do not feel appropriate action has been taken with regard to their child/children, they may feel the necessity to contact the Maine Department of Educational and Cultural Services' Office of Federal Projects for Language Minorities (289-5980) to see if the Director or ESL Consultant can be of assistance. The parents or guardians may also feel the need to explore the possibility of filing a petition or request for an inspection of the school. The prerequisites for an inspection are as follows:

ss258-A. Inspection of schools

1. Petition or request. The commissioner shall inspect a school or schools in a school administrative unit and report the findings and recommendations to the school board, addressing the concerns of the petition in light of applicable school approval standards, when:

A. Petitioned by 60% of the parents of the children of one school;

B. Requested by the school board or superintendent of schools; or

C. Petitioned by 20% of the registered voters of the unit.

(Presently, limited English proficient students are not protected by the Maine Human Rights Commission.)

To file a compliant with the Office for Civil Rights contact:

The Office for Civil Rights
U.S. Department of Education - Region I
McCormack Post Office and Courthouse
Room 222
Boston, MA 02109
Telephone: (617) 223-9689

To avoid this problem, districts need to develop and implement a comprehensive written Lau plan which includes notification to the parents (in a language they comprehend) of their children's rights and of changes in academic programming (e.g., exit from special language support services).

SECTION VI: ESL PROGRAMS

1. **What would the ideal ESL (i.e., special languages services) program look like (for fewer than 10 students)?**

Any district that has LEP students, no matter whether a low- or high- incidence population, should have a written Lau plan to effectively serve those students. This Lau plan would delineate appropriate educational procedures for LEP students.

The ideal ESL program for fewer than 10 students, sometimes called low-incidence populations, would consist of a school-wide effort to model a linguistic and cultural learning and teaching environment. The LEP students would have an appropriate time allotment with a qualified ESL teacher (might be a full-time ESL teacher if many of the students are NEP) daily during school hours. The ESL class would be held during all or part of a language - heavy class (reading, social studies, language arts) and would have great emphasis on content-based, integrated ESL instruction. The tutor/teacher would work in close collaboration with the regular classroom teachers and would have a common planning time with those teachers.

The school and community would exhibit a genuine interest in the LEP students' language and culture by seeking out community volunteers who might have skills in the students' native language and could provide a liaison to the students' cultural group. This person and/or the tutor/teacher would provide many opportunities for the LEP students to share their culture with the classroom and school as a whole by means of bulletin boards, projects, and presentations. The teacher/tutor, if a fluent speaker of the LEP student's primary language, could also offer mini-language classes to the fully English proficient classroom students to give them a second language learning experience as well.

The ESL teacher would be an active member of the school-level language assessment committee and would participate in the identification, placement, continuing evaluation, and decision-making process for the LEP students in the school. In the group process, guidance and direction could be given to the teacher especially in making curriculum objectives and goals. The ESL tutor/teacher would have ample opportunity to take advantage of professional growth offerings in the field of ESL.

The ESL classroom would be fitted with a mini-language lab and have access to video equipment to use for speeches, presentations, and dramatizations. The LEP students would also have access to computer technology.

2. **How can the school district offer continuous special language services (e.g., ESL) to the LEP student after the tutorial session time is over?**

Second language learning is most effective when the student is exposed to meaningful language input. After the ESL tutorial session, the school district can offer continuous ESL support services through a variety of sources. An enriched full-day second language experience will offer the LEP student an abundance of meaningful communicative and academic opportunities. Some of the sources for continuous ESL support services are:

1. *Utilization of peer tutors in the regular classroom setting*
2. *Utilization of parent/community volunteers in the regular classroom setting and encouragement of LEP parent involvement in school*
3. *Recruitment of native language facilitators and partners from a local or regional ethnic club*

4. *Utilization of junior high/high school foreign language students as classroom helpers, mentors, or correspondents*
5. *Incorporation of a cooperative learning model, integrated language units, and content-based ESL instruction into the regular classroom*
6. *Use of extracurricular language assignments given by ESL tutor/teacher (e.g., phone partners, interviews, surveys, activity reports)*
7. *Implementing a monolingual English-speaking partner to work with the LEP student during partial tutorial time and to help bring back the ESL partner project to the regular classroom*
8. *Heightening of faculty awareness of ESL, LEP students, and the second language learning process*
9. *Getting help from student groups such as the National Honor Society, Cub Scouts, and Future Teachers*
10. *Providing professional growth opportunities in ESL for the ESL teacher and other staff*

3. **Does Maine have a statewide ESL curriculum?**

There is no statewide curriculum in any discipline in Maine. Curriculum development is a local option, and ESL is no exception. Guidelines and models for ESL curriculum development may be obtained by calling the Office of Federal Projects for Language Minorities at 289-5980. This office is in the process of developing an ESL curriculum handbook to assist ESL personnel in setting up appropriate curricula.

4. **How can we assure that LEP students are an integral part of the school?**

The following guidelines should help assure that LEP students are sincerely and equitably given the opportunity to enjoy full participation in school activities:

- *School notices are sent out in a language the LEP students' parents or guardians can comprehend.*
- *LEP students' parents are involved in regular classroom activities, school activities, and meetings pertaining to their children's education.*
- *A second language learning experience is offered for mono-lingual English speaking students.*
- *Guidance counselors are attuned to LEP students' background and needs; (s)he provides services on a regular basis, especially to students who have experienced trauma in their native country.*
- *Regular classroom teachers are sensitive, concerned.*
- *Full faculty awareness of LEP students' culture and background and at least rudimentary ESL pedagogy and theory are provided.*
- *The language minority community is brought into the school and the school into the community (exhibits, presentations, resource people).*
- *ESL buddies are utilized in the regular classroom.*

- *LEP students are encouraged to share their culture and language with the regular classroom (via bulletin boards, food), but they are not showcased in an exotic regard.*

- *The ESL teacher/tutor is viewed as an integral part of the faculty, is included in the language assessment committee, and is offered ample opportunity and support for professional growth in his/her field of instruction.*

5. **My ESL students don't take seriously the work we do in the ESL class. Do you have any suggestions?**

   If the school and district do not take the ESL services and person providing those services seriously, the LEP students will not either. But if this is not the case, the ESL instructor might need to examine his/her activities to make sure they are contextual and related to the content of the regular classroom. The teacher may also want to work in closer collaboration with the regular classroom teacher to identify some motivational strategies, areas of interest, and content-applicable information for the LEP student. The ESL teacher may also want to investigate the possibilities of giving traditional or non-traditional grades for work done in the ESL classroom. A list of tailor-made objectives and mastery timelines will be helpful in determining grades. The ESL teacher should also have knowledge about the student's native language school experience background and literacy so as to take those factors into consideration when making long- and short-term planning decisions.

SECTION VII: STUDENTS

1. **How long does it take for the LEP student to learn ESL?**

There are two components of second language proficiency: basic interpersonal communication skills (BICS) and cognitive/academic language proficiency skills (CALP). BICS proficiency on an informal level will probably occur first. The student may appear quite proficient in the second language if only an oral inventory is taken. However, the CALP component will take the second language learner a longer time for the attainment of fluency because of the abstract nature and synthesis necessary in cognitive/academic information, language, and tasks (especially at middle-level, junior/senior high school, and higher education). According to Collier (1987), the CALP component fluency may require from 4-8 years to "reach national grade-level norms of native speakers in all subject areas of language and academic achievement, as measured on standardized tests." (Collier, 1987, p. 617) This span of time is directly influenced by several factors. Those factors are: 1) age at arrival in second language culture, 2) amount of uninterrupted schooling in first language (primary or home language), 3) length of residence (LOR) in second language culture, 4) amount of content area instruction in first language while learning second language (minimum 2 years), and 5) academic aspirations (status of advantage or disadvantage.)

Some LEP students may have learned a degree of English listening comprehension and speaking abilities but remain limited in reading and writing English. LEP nomenclature is mindful that limited English proficient students need more than just aural-oral abilities to achieve in English language standard curriculum instruction (DECS Administrative Letter #28 in Appendix.) Multiple-criteria evaluations to determine reclassification or exit eligibility would need to take all skill areas and proficiency components into consideration.

2. **A student has interpersonal communication skills, yet is doing poorly in his/her academic classes. What explanation can be given for this?**

There are two components of second language learning as described by Cummins (1979, 1980, 1981a, 1981b); they are BICS - basic interpersonal communication skills, and CALP - cognitive/academic language proficiency. For students to be fluent in a second language, they must have mastery of both components. The CALP component covers content subjects and all academic skill areas: listening, speaking, reading, writing, and study skills.

If a minority language student has the BICS skills but is doing poorly in his/her academic classes, it is possible that the student has been exited prematurely from a specially designed language support program and cannot benefit fully from an education conducted in English.

3. **What is the ideal age for a LEP student to come to the U.S. and begin learning ESL?**

There is no "ideal" age for a LEP student to come to the United States, though there is an ideal age range for a child to begin to acquire English - during the preschool years. LEP children arrive whenever they do; our mission is to structure special language services (e.g., ESL, bilingual) appropriate to their second language learning needs.

In second language research (Collier 1987), the age spectrum of 8-12 years was found to be the most advantageous for LEP students to advance in the cognitive/academic language proficiency skills component of language fluency. However, this advancement depended on the factors of: 1) amount of uninterrupted schooling in the

first language; 2) length of residence in second language culture; 3) amount of content area instruction in first language while learning the second language (minimum 2 years); and 4) academic aspirations.

4. **Where do AFS/exchange students fit into the legal requirement of services in the laws affecting access to equal education?**

Students in the AFS/exchange program are invited guests and therefore not entitled to benefits of U.S. students who are recent immigrants or come in under refugee status to eventually become U.S. citizens. AFS agreements are worked out between the host schools and the foreign country involved. In most cases, the students usually have some facility with the language of the host country or seek an immersion kind of experience in it. The AFS program is limited to students of high school age and these students live with a family in the host country. These exchanges are also for one year or less. Some other specially arranged tours or brief visits have and are being arranged more often as cultural exchanges with countries such as Russia and China expand.

Please note that non-discrimination prohibitions do apply to AFS students, but in terms of a specific language program, the decision to provide those services would be left up to the district's discretion. However, if an exchange student were to experience difficulty in the American secondary school coursework, it would behoove the school district to offer that student some ancillary language support services to enhance his/her academic success.

Because the exchange students are in the jurisdiction of the school district, are residing temporarily in the U.S., and are included in an educational component of the AFS agreement, they have many protections and should not be discriminated against.

Furthermore, please note that the alien (legal or illegal) status of some LEP students does <u>not</u> protect a district from having to provide special language services (e.g., ESL, bilingual) to those students. There are court decisions that indicate an alien (illegal or legal) has a right to an education appropriate to his/her needs as long as (s)he resides in that district's cachement area.

5. **What if I suspect one of my LEP student's is exceptional? What is the next appropriate step? How can I determine if a P.E.T. is appropriate?**

Assuming that an initial school entrance screening and evaluation of the language skills of the LEP student were conducted and that placement in a special language services program (e.g., ESL, bilingual) has been established, then proceed in an informed manner. There is a complex process ahead in establishing an exceptionality especially something like a mental handicap or a specific learning disability. Certainly a P.E.T. referral can be made, giving as much objective and anecdotal data and background information as possible. A LEP student will require the services of a native speaker test administrator, hopefully one who is also a specialist in exceptionalities.

Testing in both native language and English should be carefully considered in order to come to a valid diagnosis. It may be that a specific learning disability will be evident in both the native language as well as English. But, in languages that are very different from English (e.g., Arabic, Japanese), an exceptionality may manifest itself in one language but not in the other. A LEP child exhibiting delayed language development in the native language may evidence this difficulty regardless of the language being

learned. The disability must be attributable to some type of organic or functional disorder and be differentiated from simply the difficulty in learning a second language.

We have seen a number of recent immigrants/refugees who have had little or no previous formal education in their home country. Their lack of exposure to school or even the particular teaching/learning styles in their native country may cause them some difficulty in adjusting to the American school. It is important to document as much as possible the previous educational experience and performance of the student in question. Some difficulties may also be attributable to lack of adequate special language services (e.g., ESL, bilingual) or inappropriate grade or program placement. We also have to take into account the age of the student, length of time in the country, and length of time in special language services. Sometimes our expectations of how quickly a student should become proficient in English are unrealistic or we are making comparisons to other LEP students who progressed or are progressing more rapidly. This may simply reflect a difference in ability, culture, social adjustment, and motivation.

Once a referral is made, the timeline for a P.E.T. process goes into effect. The ESL teacher/tutor, as well as the migrant teacher (if appropriate), should be included in the P.E.T. The P.E.T. also needs to insure parent involvement and participation. In order to do this, arrangements to have a native language interpreter at the P.E.T. meeting(s) may need to be made. The P.E.T. will also want to have written forms and information available in the parents'/guardians' native language, if necessary.

The P.E.T. process will not necessarily conclude with a coding for exceptionality. The P.E.T., after a thorough non-discriminatory evaluation, may conclude that the LEP student in question needs expanded ESL support services or other supplemental language resources. These P.E.T. generated recommendations will also be affected by the timeline limitations.

There are some LEP students with special problems and handicapping conditions; but we would not expect the incidence of these conditions to be more than the average occurrence in the fully English proficient population. If LEP students are over-represented in special education classes, a red flag should go up. The school's task is to proceed with all the available resources in consideration of the special needs and situations of LEP students, especially in the area of more elusive and hard to identify disabilities. No LEP student should be assigned to special education on the basis of English-only assessment procedures (if that student's dominant language is other than English), or simply because the student is LEP. If you have questions, talk with the district special education director or call a state consultant for exceptional children at 289-5950.

6. **What minimum qualifications must a LEP student meet to be admitted to most colleges and universities? How may teachers guide LEP students to post-secondary education? What programs, if any, are available within the UM system for otherwise qualified LEP students?**

Post-secondary institutions must ensure that they do not discriminate on the basis of national origin. Generally a LEP student would be expected to meet the same entrance requirements that any applicant must meet to be accepted for study at a college or university. The university assumes that all Maine high school graduates have adequate literacy skills in English to pursue a college education. Many colleges and universities require foreign students to pass the Test of English as a Foreign Language (TOEFL) before being accepted/enrolled in regular college courses. A student who resides in the

U.S. but comes from a home where the primary language is other than English will need to contact the specific university about admission requirements. The general information numbers for the University of Maine campuses are:

UM Augusta - 622-7131
UM Farmington - 778-3501
UM Fort Kent - 834-3162
UM Machias - 255-3313
UM Orono - 947-0336
UM Presque Isle - 764-0311
University of Southern Maine - 780-4141

Admission requirement information for private colleges can be obtained from those individual colleges (contact directory assistance for the college in question).

Many colleges also require SAT scores as part of the application process. The ESL teacher or LEP student may want to speak with the high school guidance counselor to find out: (1) if a specific college or university requires the SAT, and (2) if the college or university does require the SAT, what the average composite scores are for that institution.

Most campuses do have tutoring programs staffed by student volunteers, but these are primarily designed to help students who are having difficulty in a particular course such as trigonometry or chemistry. Few student tutors would have the training to teach ESL. The best thing to do is to check with the registrar of a particular college or university and find out if there are any special services or options for LEP college applicants. At UM, there is available, at extra cost to the student, an intensive English course designed for speakers of English as a second language. For more information regarding this course, contact Ruth Bentley in the International Student Office, Memorial Union, Tel. 581-1825.

As for teachers guiding LEP students to post-secondary education, the teacher should be familiar with the student's school record and achievement as well as the current level of his/her English language proficiency--especially in reading and writing. Most college courses require a very high level of skill in reading and writing. Reading comprehension is a must in order to survive. Teachers would do well to help students be realistic about what they are capable of doing but should avoid making judgments based on the students' national origin or race. This is not a reflection on the student's ability and intelligence; it is simply a matter of up-grading one's English literacy skills in order to handle college content. Special language services (e.g., ESL, bilingual classes) need to offer appropriate instruction so as to ensure LEP students access to post-secondary education and afford them the necessary skills to benefit from higher education conducted in English. We do these students no great service by allowing them to graduate from our high schools without the basic language tools they need to succeed in a post-secondary education conducted in English.

In many communities ESL is offered to adults through the local chapter of Literacy Volunteers as well as refugee resettlement offices, national origin advocacy groups, social and religious groups. As a note, there are a number of colleges and universities in Massachusetts and Connecticut which do offer support services in ESL to the limited English proficient student.

Many students in Maine go on to post-secondary vocational technical schools where acquisition of skills in a trade or vocation are of primary importance.

School personnel should not discourage LEP students from aspiring to higher education and should provide them with appropriate special language services (e.g. ESL, bilingual) to meet their needs.

SECTION VIII: EQUAL EDUCATIONAL ACCESS

1. **When can a teacher recommend transfer of a LEP student to a monolingual/regular classroom? What criteria should schools use to reclassify LEP students as FEP?**

Teachers may recommend that a LEP student be reclassified to a FEP status by contacting the building or district-level language assessment committee and requesting an exit evaluation. At this point, the teacher's observations and perceptions would indicate that the student would be able to benefit from an education conducted in a fully English classroom. The LAC would then proceed to implement the district criteria for reclassification and transferral from the ESL program. The LAC would be responsible for carrying out the reclassification procedures consisting of:

1. *Teacher evaluation of the student in question*
2. *Objective evaluation of a student's mastery of ESL skill objectives*
3. *Objective assessment of oral language proficiency*
4. *Objective assessment (36th percentile in reading, writing, and comprehension) of English language arts abilities (norm- or criterion-referenced standardized test) (See DECS Administrative Letter #28.)*

If these measures corroborate each other, the LAC could decide to reclassify the student and plans could be made to transfer the student into a standard curriculum classroom. The LAC would need to notify the parents (in their native language) of this reclassification and transfer. This notification would need to include information about their legal right to challenge the reclassification of their child.

Within two weeks of the new instructional placement, the LAC should follow-up and review the student's academic achievement and psycho-social adjustment. If this review is satisfactory, the LAC should also arrange a periodic monitoring according to district Lau policy of the newly classified student for at least three years after reclassification and placement in a fully-English proficient classroom.

2. **Should a district have a written policy (Lau plan) regarding LEP students?**

Yes, a district definitely should have written procedures that:

- *are consistent district-wide;*
- *delineate appropriate training and certification requirements for the personnel implementing the procedures and special language services; and*
- *contain the four major components (i.e., identification, assessment, placement and provision of special language services, and reclassification and exit criteria) of a policy.*

The DECS Administrative Letter #28 (see Appendix) can be used as a guideline for tailoring the Lau plan to the individual district.

For technical assistance in writing such a plan, please contact the DECS ESL consultant at 289-5980.

3. **How can we get assistance in writing a Lau plan for our district?**

For assistance in developing and writing a comprehensive Lau plan for an individual school district, contact:

The Office of Federal Projects for Minority Languages
Department of Educational and Cultural Services
State House Station #23
Augusta, ME 04333
289-5980

Attention: Susan Parks and/or Dr. Barney Berube

OR

New England Multi-functional Resource Center
150 Shibles Hall
Orono, ME 04469
581-2428

Attention: David Veilleux

4. **Should we retain LEP students in a lower grade level until they master the skills necessary to be promoted? Is it advisable to place LEP students at a grade level commensurate with their English language proficiency level instead of their age?**

In the district's Lau plan, a section should be dedicated to addressing the issues of retention and age-appropriate placement. Affectively and cognitively, it is advisable to place LEP children at their appropriate grade level (in accordance with their chronological age). Consideration should also be given to the student's physical size and maturity. The LEP students may not be able to function within the curricula goals and objectives of the grade level, but they will benefit from interaction with peers in an appropriate cognitive and affective setting. Regardless of their primary or home language literacy status, an appropriate program can be tailored for them. Adjustments can be made in the content area instruction to maximize the benefits for LEP students' language learning. The objective of special language services (e.g., ESL, bilingual classes) is to improve the students' English language skills ability to the extent that she/he can benefit from an education conducted in English.

Extreme care should be exercised in making decisions regarding grade-level retention of LEP students. Such decisions should be made on a case-by-case basis and not under a blanket criteria. Educational benefit to the child should be the criterion used. In regard to course loads for LEP students, care should be taken to ensure that academic prerequisites are met, if possible, and that the student is not thwarted in his/her pursuit of future educational aspirations.

5. **For how long should reclassified LEP students' academic programs be followed once they've been placed in the fully English proficient classroom?**

A school district should establish procedures in its Lau plan for periodically monitoring the newly reclassified fluent-English proficient student for at least three years after reclassification and mainstreaming. The objective of this monitoring process is to objectively prove that the non-English language background student is adjusting to the

new instructional setting and functioning substantially equivalent to non-minority students in English-only instruction. Thus, the school district must ensure that they continue to address the linguistic, academic and psychosocial needs of non-English language background students. See DECS Administrative Letter #28 (3/17/88 or updated revision) in Appendix.

6. **A recently arrived refugee now appears to speak and understand English well. We do not see a need to continue services in ESL. Are there any problems with that?**

In this situation, teachers and LAC members should be aware of the components of fluent language proficiency (BICS and CALP). The student may have a seemingly polished aural/oral communication mode in English yet not have mastered the cognitive/academic language skills so necessary for benefiting from an education conducted in English. Speaking and understanding may not require as sophisticated a knowledge of English as academic instruction. The teacher and LAC should make sure they have extensive background information on the child (number of years school experience in native country, number of years studying English, etc.) and multi-criteria informal and formal evaluation scores. Standardized test scores should also reflect a parity with monolingual English-speaking peers' scores. If all this information indicates that the student is ready to benefit from and succeed in the classroom of fully English proficient students, then the language assessment committee can safely decide to reclassify the student as fluent English proficient. The LAC should follow district procedure to periodically monitor the student's academic, linguistic, and psychosocial status for three years after the reclassification has occurred.

7. **What responsibilities should a language assessment committee have?**

A list of the responsibilities of the district or building-level language assessment committee (LAC) should be a component of the district's written Lau plan. A list of responsibilities can be found in Administrative Letter #28 (see Appendix). The plan would also include appendices of responsibility checklists used by the committee. The list of responsibilities would ideally include:

1. *Go through the home language surveys to identify potential LEP students in the school (those students who have not already been identified by parents, mandatory special education screening, or teacher referral). Make Xerox copies of those surveys that indicate minority language usage. Create a language assessment file for each student identified.*
2. *Notify the parents in their native language in a manner in which they understand of date and nature of upcoming English language proficiency testing (notification optional).*
3. *Administer a multi-criteria evaluation to potential LEP students (test-administration and score-interpretation teaching available through our office) annually.*
4. *Make decisions from multi-criteria evaluation about placement (grade level) and appropriate ESL programming (i.e., length of time, time of day, type [pull-out or in-class]).*
5. *Meet on a regular basis to monitor student's language and academic program (grade reports, standardized tests when applicable, parent and teacher observations). Quarterly meetings are recommended.*
6. *Meet with entire school staff to provide information about LEP students and ESL.*
7. *Make recommendations for placement and program type for next school year (extra or summer programming optional).*

8. *Discuss direction and instructional objectives for the lay ESL tutor.**
9. *Recommend revisions and additions for district Lau plan.*
10. *Recommend modification of ESL support services or reclassification of a student from LEP to FEP, etc.*

11. *Carry out periodic monitoring for three years after student's reclassification to FEP.*

**Tutoring is not the method of choice. OCR prefers that special language services be provided by certificated staff. The instructor should be qualified and trained in the area of ESL instruction. Tutoring is acceptable only as a third or fourth alternative.*

OCR will not have unrealistic or unreasonable expectations of districts that have low-incidence LEP populations, but the "sink-or-swim" approach is not appropriate. If a total immersion program is chosen, the rationale should be educationally sound and documented.

The fewer the students, the less formal a special language services program may be; but the school district should utilize its collective resources to develop an appropriate plan for the individual LEP student in order to help him/her to gain skills which will allow him/her to benefit from an education conducted in English.

SECTION IX: RESOURCES

1. **How can we contact a native language translator to help with interpretation and translation?**

There are several ways in which to contact native language translators and interpreters in your area. They are:

1. *Place an advertisement in the local newspaper.*
2. *Acquire a list of native language translators from the State Library Information Exchange 1-(800) 322-8899.*
3. *Contact foreign language teachers at the middle school, junior high, and senior high levels.*
4. *Contact the foreign language department at a nearby university or college.*
5. *Contact the New England Multifunctional Resource Center at Brown University (401-274-9548). The Center has access to several translator resources throughout New England. These resources are especially necessary for assessment of rare cases of bilingual special education diagnoses. Once the translation has been done, be sure to have it checked by another native language resource person to ensure readability and accuracy of translation.*
5. *Contact the Office of Federal Projects for Minority Languages (289-5980).*
6. *Contact a local or regional ethnic organization.*

(Please see Section II, Subsection C, questions #6 and 7.)

2. **Where can I get help regarding a limited or non-English proficient student?**

You can get help from any of the sources below. Sometimes the best help can be found right where you are. If not, you can always look increasingly further from home.

from YOUR LOCAL SCHOOL DISTRICT . . .

ADMINISTRATORS can help arrange schedules, in-service volunteers, and outside agency coordination to make the most of everyone's working together for the newcomer's success . . .

COUNSELORS can help evaluate transcripts, even arrange for reconstruction of records lost or destroyed . . .

TEACHERS can help in many ways often overlooked, e.g., some may remember what it is like to learn a foreign language (maybe it was English?); some may teach (or have taught) a foreign language (even if it is not the one you would like at the moment); some may teach English (or have taught it) to non-native speakers, perhaps they were at one time an ESL teacher or a bilingual teacher or an aide; some may teach (or have taught) speech, perhaps even cross-cultural communication; some may teach (or have taught) special education (someone who knows sign language, for example, is bilingual too); some may teach music or art, to give students success in nonverbal activities . . .

SCHOOL LIBRARIANS can help locate appropriate materials and offer a stimulating and quiet refuge for work . . .

NURSES can help detect health problems before they prevent success in the transition . . .

STUDENTS can help inside and outside the classroom through a buddy system and by peer tutoring . . .

SUPPORT STAFF can help through one-on-one contact during the school hours . . .

VOLUNTEERS can help as readers, tutors, storytellers, playground supervisors, drivers, recruiters of other volunteers . . .

PARENTS can help through participating in school activities and by encouraging their children to help peers who do not know English . . .

from YOUR COMMUNITY . . .

CHURCHES can help to provide opportunities for family participation in social gatherings; mission groups can help ease the stress during transition . . .

CIVIC GROUPS can help through camps, health care, clothing, food, etc. for especially needy students . . .

SPONSORS can help establish the family in the community and school by providing household items, clothing, food, transportation, etc., plus firsthand experiences with American culture and sometimes interpreters and translators . . .

SPONSORING AGENCIES can help by providing follow-up services to sponsors and to the school; help can range from cultural materials to solving individual problems to interpreters and translators . . .

TOWN LIBRARIES can help reinforce for students and families the learning of English and the American culture . . .

ORGANIZATIONS FOR YOUNG PEOPLE can help outside the classroom, especially during summers, to build self-confidence and trust in a new environment, including the informal settings for practicing English (e.g., 4-H, Boy Scouts, Girl Scouts, Little League, church camps, etc.) . . .

FRIENDS can help in many ways (e.g., retired teachers, retired pastors, foster grandparents . . .)

from the STATE OF MAINE

FEDERAL PROJECTS FOR LANGUAGE MINORITIES can provide technical assistance and in-service training for local school districts in ESL assessment, methodology, program development and legal obligations. The office also maintains a resource center with instructional materials in ESL and multicultural education. For further information, write or phone:

Dr. Barney Berube
Ms. Susan Parks
Department of Educational & Cultural Services
State House Station #23
Augusta, ME 04333
Telephone: 289-5980

REFUGEE RESETTLEMENT PROGRAM can provide information concerning services available to refugees throughout the state. Contact:

David Agan, Director
Diocesan Human Relations Service
Refugee Resettlement Program
107 Elm Street
Portland, ME 04101
Telephone: 871-7437

MULTIFUNCTIONAL RESOURCE CENTER can provide in-service training and technical assistance to parents and educational personnel participating in, or preparing to participate in, programs designed to serve students with limited English proficiency--i.e., bilingual education or special alternative instructional programs. The MRC's are administered by the U.S. Department of Education, Office of Bilingual Education and Minority Languages Affairs (OBEMLA). Phone or write:

Dr. Adeline Becker, Director
New England Multifunctional Resource Center
Brown University, Weld Building
345 Blackstone Blvd.
Providence, RI 02901
Telephone: 401-274-9548

or

Mr. David Veilleux
University of Maine
150 Shibles Hall
Orono, ME 04469
Telephone: 481-2428

MAINE INFORMATION EXCHANGE can provide access to research data, current information and material and human resources on multiple topics. A list of native speakers of languages other than English is available. Call 1-800-322-8899.

Outside the STATE OF MAINE

NEW ENGLAND CENTER FOR EQUITY ASSISTANCE can provide technical assistance to local school districts through resource development, dissemination of materials and linkage of other agencies for the purpose of providing access to equal educational opportunities. This includes the integration of limited English proficient students. For further information, write or phone:

New England Center for Equity Assistance
The NETWORK, Inc.
290 South Main Street
Andover, MA 01810
Telephone: (508) 470-1080

NORTHERN NEW ENGLAND TEACHERS OF ENGLISH TO SPEAKERS OF OTHER LANGUAGES can help with newsletters, regional conferences, etc. For more information, write to:

NNETESOL
c/o ATP Fiske Annex
Keene State College
Keene, NH 03431

U.S. OFFICE OF REFUGEE RESETTLEMENT (ORR) can help with some materials and referrals to other appropriate agencies.

Office of Refugee Resettlement
Room 1229, Switzer Building
330 "C" Street SW
Washington, DC 20201
Telephone: (202) 245-0979

ERIC CLEARINGHOUSE ON LANGUAGES AND LINGUISTICS (ERIC/CLL) can help with information on foreign language education (for both commonly and uncommonly taught languages), psycholinguistics and psychology of language learning, theoretical and applied linguistics, bilingualism and bilingual education, English as a second or foreign language, intercultural communication. Write or phone:

ERIC Clearinghouse on Languages and Linguistics
Center for Applied Linguistics
1182 22nd Street, NW
Washington, DC 20037
Telephone: (202) 429-9551

TEACHERS OF ENGLISH TO SPEAKERS OF OTHER LANGUAGES (TESOL) can help members (and others) through quarterlies, newsletters, supplemental issues and conferences; for more information, write or phone:

TESOL
1118 22nd Street NW, Suite 205
Georgetown University
Washington, DC 20037
Telephone: (202) 872-1271

NATIONAL CLEARINGHOUSE FOR BILINGUAL EDUCATION (NCBE) can help with publications, bibliographies, newsletters, research, etc. Write or phone:

National Clearinghouse for Bilingual Education
11501 Georgia Avenue
Wheaton, MD 20902
Telephone: 1-800-647-0123

CENTER FOR APPLIED LINGUISTICS can help with a broad range of publications on language and culture, also on test materials; the Refugee Service Center (RSC) is also located here; write or phone:

Center for Applied Linguistics
1118 22nd Street NW
Washington, DC 20037
Telephone: (202) 429-9292

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS can help with information and resource direction.

U. S. Department of Education, Office for Civil Rights
Region I
McCormack Post Office and Courthouse, Rm. 222
Boston, MA 02109
Telephone: (617) 223-9689

3. **Where do I go for materials (free, if possible) to help me teach LEP children?**

OCR contends that if fluent English proficient students are provided with instructional materials, LEP students should receive equal treatment.

Your first stop for free materials may be the Department of Educational and Cultural Services (Federal Projects for Minority Languages). That office (289-5980) will provide a free catalog of its instructional materials from which you may request needed items. The National Clearinghouse for Bilingual Education may also be an excellent resource for free or at-cost materials. Call them at 1-800-647-0123. Limited information and access to a large database is available free from the Maine Information Exchange at 1-800-322-8899. The ERIC Clearinghouse on Languages and Linguistics can also provide you with reference materials. Call them at 1-800-227-3742. (See also Section IX, question #2.)

4. **Can MDECS help monolingual English-speaking children learn about other cultures?**

Although most of the service clientele of the DECS Office of Federal Projects for Language Minorities are language minorities, it is possible that services to language majority clients could occur. Examples of such services would be: cross-cultural awareness, prejudice reduction, control of bias and stereotype, understanding the national origin gap in public education, advocacy, attitude enhancement, civil rights issues, demographics, and community support. We do speak before teachers and other educators, parents, community groups, and public service organizations. Call us at 289-5980.

5. **Who is responsible for refugee resettlement, sponsorship, and job development in Maine?**

The Office of Refugee Resettlement is a service of the Diocesan Human Relations Services operated by the Catholic Diocese of Maine. It receives its funding from two sources: the United States Catholic Conference and the Department of Human Services as well as some private support.

The Refugee Resettlement Program assists and coordinates resettlement efforts throughout Maine. Its case management process includes four service areas: employment development, education, volunteer resource development and social

adjustment support. Its purpose is the economic and social self-sufficiency of the refugees in the shortest possible time after arrival in Maine.

The employment component emphasizes an informal networking with the goal of opening up new employment opportunities for refugees. A thorough job development effort places as many refugees in jobs as possible.

The education component focuses on providing survival ESL (English as a second language) for refugees in their communities. These services are contracted through local adult education programs and/or in conjunction with groups such as Literacy Volunteers. Sponsors are also vital to this component.

The social adjustment component concerns itself with the physical, emotional, cultural and social needs of the refugees, particularly during the first few months after arrival. Caseworkers help sponsors meet these needs.

The volunteer resource development component attempts to maximize local community involvement in refugee resettlement through three main avenues: sponsorship, specialized volunteer involvement, and use of local service resources.

The Refugee Resettlement Program, as a service agency, coordinates the process of resettlement. The program, however, depends heavily on the voluntary involvement and support of hundreds of Maine community people. For further information, call 871-7437.

6. What does it cost to receive technical assistance from MDECS in ESL or multicultural education?

There is no charge for services provided by the Office of Federal Projects for Minority Languages that take place during normal work hours.

7. What kind of resources are available in Maine for assistance in evaluating our programs or for guidance on testing limited English proficient students?

In addition to the staff of the Maine Office of Federal Projects for Language Minorities in Augusta, the Title VII Evaluation Assistance Center-East (EAC-East) is available to provide technical assistance on the evaluation of educational programs for limited English proficient students. The EAC-East provides technical assistance at no cost to Title VII grant recipients through workshops, on-site and telephone consultation, regional meetings, written communication, materials development on timely evaluation topics, and ongoing development of a bilingual test information system. The EAC-East office serving Maine is located in Hampton, New Hampshire and can easily be reached through its toll free telephone number (1-800-258-0802).

8. Where can I get help locating appropriate tests to meet specific information needs?

There are so many commercial tests available today that it would be impossible to even begin to list them. Furthermore, test selection should be done in view of the intended use of the test information, the students being tested, and other considerations. For assistance in locating appropriate tests, contact the Maine Office of Federal Projects for Language Minorities in Augusta or the Evaluation Assistance Center - East (EAC-East) in Hampton, New Hampshire (1-800-258-0802). Additional sources for information on tests include resources at the local level (e.g., reading specialists,

Chapter 1 project managers, Title VII project managers) who may be familiar with a variety of tests and testing procedures.

More information about appropriate tests can be obtained from: The New England Multifunctional Resource Center; ERIC Clearinghouse on Languages and Linguistics; and the The Tenth Mental Measurements Yearbook. (See this section, question #2.)

9. **How can we find out the names of other ESL resource people in our area?**

Networking with other ESL resource people in your geographic area is important for professional growth. To do this an ESL staff person could:

1. *Maintain a list of ESL colleagues encountered at conferences, meetings, university classes, and institutes.*
2. *Check with the state ESL consultant for information in her files (in Maine, Susan Parks).*
3. *Write an innovative grant to create an official state or regional network to publish newsletters, swap ideas, and have regular meetings to coordinate activities.*
4. *Participate in and attend professional conferences, institutes, workshops, and conventions.*

(For more information on access to a wide variety of ESL resources, see Section IX, question #2.)

10. **Where in Maine can expertise be secured for helping us set up an ESL program and obtaining data and current research regarding ESL, bilingual, or multicultural education?**

The following agencies are funded to provide technical assistance and training at no cost to the school:

Department of Educational and Cultural Services
Office of Federal Projects for Language Minorities
State House Station #23
Augusta, ME 04333
Tel. 289-5980
Contact: Dr. Barney Berube
Susan Parks

New England Multifunctional Resource Center
University of Maine
150 Shibles Hall
Orono, ME 04469
Tel. 581-2428
Contact: David Veilleux

(See Section IX, Question #2.)

11. Is there an office in the UM system I can go to for help with ESL in-service?

New England Multifuctional Resource Center
150 Shibles Hall
Orono, ME 04469
Tel. 581-2428
Contact: David Veilleux

SECTION X: INSTRUCTION

1. **What is content-based ESL instruction and how is it done?**

Content-based ESL instruction is an approach to second language teaching which utilizes content-area subject matter to teach language. It is believed that with meaningful, contextualized concepts attached to a content area, the second language learning process will be enhanced. This approach also helps second language learners maintain the cognitive structures they may have already developed in their first language. It may also be advantageous to monolingual-English speaking students whose concept development is slower. This approach can be utilized by the ESL teacher as well as the regular classroom teacher. The approach requires special planning in order to include the language-teaching objectives. Prior to the content lesson, the teacher needs to: 1) identify the main ideas and important supporting details, (2) identify important vocabulary, (3) rewrite the main idea in language the LEP student is able to understand, (4) plan non-verbal strategies for comprehending the concept, (5) make provisions for how and when to do pre-teaching, (6) teach content area reading strategies, and (7) decide how to evaluate the learning taking place. The teacher may also want to investigate the appropriateness of using a content area textbook with LEP students. (For more information see DECS 1988 catalog articles numbers 14, 58, 68, AD 34B, 12, 21 and articles written by Ana Uhl Chamot among others.)

2. **What are some guidelines for daily time periods of ESL tutoring/instruction for different ELP levels?**

Based upon the language assessment committee's multi-criteria evaluation of an individual student, an English language proficiency level could be assigned to the student. These levels might apply differently to the various skill areas needed for full fluency (i.e., low intermediate speaking skills, high beginning reading skills). The levels could be used as guidelines for the LAC to determine special language services (e.g., ESL, bilingual) programming and program time allotments, types, and instructional focus on a case-by-case basis. A general spectrum of levels and suggested time allotments are as follows:

Level	*Time Allotment*
Low beginning-High beginning (NEP-LEP)	*2-4 hours daily*
Low intermediate-High intermediate (LEP)	*1-2 hours daily*
Advanced (borderline FEP)	*45 minutes - 1 hour daily*

When a district has a population of limited English proficient national origin minority students, OCR is looking for a formal program that is appropriate to that student's language learning needs. The district needs to document and justify the special language services (e.g., ESL) programming decisions made regarding LEP students.

3. **What do I have to do if I get students in my class who are non- or limited English proficient?**

If you get students who do not know English in your class, the first thing you should do is to notify the language assessment committee (LAC) in your school so that they can get background information on the student and begin testing the student in his/her primary language and in English to determine what kind of special language services (e.g., ESL, bilingual) (s)/he will need. Then call the DECS Office of Federal Projects

for Language Minorities and order some articles that will help you better understand the limited English proficient student and the second language learning process. Teacher training and professional growth in content ESL are also advisable for you to pursue.

In the classroom, make the student feel comfortable and welcome and assign a reliable, friendly student to be an ESL buddy. During instructional time, utilize multi-sensory cues when giving directions to assist the student's understanding. You might also want to: recruit community/parent volunteers to work with the student; contact an ethnic community group to find a person who speaks the student's primary language; and incorporate more cooperative, content-based, and language experience learning into the regular classroom instruction.

If the student continues to experience difficulty in the classroom with fully English proficient students, notify the LAC and share with them the pertinent information and concerns. They will want to consider some alterations in the special language services (e.g., ESL, bilingual) being provided by the district.

4. Should we maintain the native language as well as the target language?

OCR does not take a position in this matter. However, Title VII ESEA legislation and regulations currently do allow grants for maintenance bilingual projects. Schools which compete for and receive Title VII funds must have a strong ESL component and usually they are transitional bilingual projects where the students native language is used only as a tool for instruction for as long as needed to get the student into the fully English proficient classroom.

A number of research studies (Lambert, Cummins) among many others would favor the bilingual approach over an ESL-only approach. Still other research would appear to indicate that the greater the literacy in native language, the easier the transition of these skills to English. There are many bilingual projects which develop reading and writing skills in the native language before introducing these skills in English, with students achieving at or above grade level when compared to their monolingual English-speaking peers.

The reality is that most schools are not staffed or equipped to provide a dual language curriculum, especially when there are only a few students who would require and benefit from such a program. Any good ESL program, however, attempts to recognize and value the LEP student's native language and culture, and to incorporate it into the classroom and school. Penalties for speaking one's native language imposed by a teacher or the school are sure ways to send messages to the students that their language, culture, and the students, themselves, are not welcome or appreciated. This results in loss of self image and might be considered a discriminatory practice in most instances. (See Section III, Subsection A, #4.)

5. What effect does native language illiteracy have on target language literacy goals?

Obviously without native language literacy, there are no reading skills or concepts that the teacher can capitalize on to transfer to English reading and writing. Some studies indicate that the best course of action when a LEP student has good oral/aural skills in the native language is to develop reading and writing ability in the native language first before teaching the same skills in English. In the case where native language skills are not well developed, it would seem that developing good oral/aural ability in English should precede the introduction of English reading and writing. A lot depends on the

age and grade level of the LEP student, previous educational experience, and the resources at the disposal of the school. Integrative and whole language approaches would favor presenting oral/auditory second language learning along with reading and writing.

SECTION XI: FUNDING

1. **How do we determine if our students are refugee status?**

Refugee children are children who hold or whose parents hold Alien Registration Cards ("I-94"), are classified by the Immigration and Naturalization Services as "Refugee," and are enrolled in public and nonprofit private elementary or secondary schools.

Such children may meet any of the following criteria:

(1)(i) Admitted into the United States as refugees under the authority of the Immigration and Nationality Act, Secs. 203 (a)(7) (repealed), 207, or granted asylum in the United States under the authority of Sec. 208 (8 U.S.C. 1153(a)(7) (repealed), 1157, 1158); or

(ii) Paroled into the United States as refugees under the authority of the Immigration and Nationality Act, sec. 212(d)(5)(8) U.S.C. 1182(d)(5); or

(iii) Allowed to remain in the United States as refugees because their deportation has been withheld under the authority of the Immigration and Nationality Act, Sec. 243(h)(8) U.S. C. 1253(h); or

(iv) Granted asylum in the United States as refugees under the authority of 8 CFR Part 108; or

(v) Admitted into the United States as refugees under the authority of the Refugee Act of 1980, Pub. L. 96-212; and

(2) Are within the age limits for which the applicable state is required or permitted under state law to provide free public elementary and secondary school education for students in kindergarten through grade 12.

Indochinese children mean aliens who have fled from Cambodia, Vietnam, or Laos, and who:

(1) Have been admitted into the United States as refugees under Section 207 of the Immigration and Nationality Act;

(2) Have been paroled into the United States by the Attorney General under Section 212(d)(5) of the Immigration and Nationality Act; or

(3) Are applicants for asylum, or have been granted asylum in the United States.

2. **There is no money in our school budget to pay an ESL tutor. What funds are available through the state?**

The state of Maine offers no public funding specifically targeted for ESL language program support. However, refugees as well as all children enrolled in a school system, regardless of English language ability, are included in a school system's funding formula awarded by the state. In addition, there are opportunities for competitive state innovative grants for special projects targeted for national origin minorities. For more information about this program, contact Ms. Jean Konzal at 289-5981.

3. **Is money available for innovation in teaching ESL or in teaching multicultural studies?**

Yes, the Maine State Legislature has appropriated funds for the purpose of enhancing innovation in public education.

Competitive classroom-based grants are initiated by teachers with awards up to ***$2,000*** *for projects submitted by* ***individual teachers,*** *and* ***$5,000*** *for projects submitted by* ***two or more teachers*** *working cooperatively. These projects do* ***not*** *require matching funds.* ***All teachers*** *who are employees of* ***public*** *schools and* ***private*** *schools* ***approved for tuition*** *purposes are eligible. For more information, call the DECS Innovative Education Grant Office at 289-5981.*

There is ESEA Title VII federal funding for special alternative programs that serve limited English proficient students. ESL projects are eligible to apply for this annual national competition for funding. About 140 grants are awarded annually across the United States. Call 289-5980 for more information.

4. **Our school budget is limited. We simply cannot afford to employ an ESL tutor, especially for just one child. Are we being unreasonable?**

Budget limitations are never acceptable as a rationale for a school district's failure to provide equal educational access for language minority students. To deny needed English language support services would restrict a language minority student in his/her enjoyment of a full education. (Title 34, Part 100.3 of the Civil Rights Act). There is no minimum set by law as to how many minority children must be enrolled to receive equal educational access through special language services (e.g., ESL, bilingual).

5. **Does the state of Maine permit or fund bilingual education or multicultural studies?**

Although Maine statutes stipulate that English must be the language of instruction in all elementary and secondary schools, exceptions are permitted as follows:

> *A school may provide instruction in a language other than English in the following circumstances, subject to approval of the Commissioner:*
>
> *A. Transitional instruction using bilingual techniques may be provided to students of limited proficiency in English; and*
>
> *B. Schools may also establish bilingual programs for the purpose of providing proficiency in both English and a second language. (Sec. 4. 20-A MRSA, c. 207 as amended by P.L. 1983, 4701)*

Multicultural studies are addressed in the law as follows:

> *A course in the history, including the Constitution of Maine, Maine geography and the natural, industrial and economic resources of Maine and Maine's cultural and ethnic heritage shall be taught in at least one grade from grade 6 to grade 12, in all schools, both public and private. (Sec. 4 20-MRSA, c. 207 as amended by P.L. 1983, 4706)*

No funding is attached to either law.

6. Is there state money available for early childhood education of minority children?

There are no early childhood grants targeted specifically for minority children. Early childhood (Pre-K to 3) education grant programs are state funded, competitive, and based on local subsidy allocations. Typically, funding has been provided in areas such as: teacher training, screening, 2-year kindergartens, multi-grade classrooms, learning environments, and programs for four-year olds. For further information, call 289-5981.

SECTION XII: GLOSSARY

1. *Bilingual Education: Any program of instruction which uses more than one language.*

2. *Exit Criteria: Standards developed by educators to define when a student has completed satisfactory progress in a program for LEP students. Policy and procedures should be clearly laid out, and practices should support such a policy. Students should not be arbitrarily removed from special language services programs without an evaluation of whether they have sufficiently gained from the program to benefit from the normal program of education of the school system.*[1]

3. *Home Language Survey: A survey, often a form, administered by school systems to determine the language spoken at home by a student. Such surveys are often in English and another language (in Maine, also called a Lau survey).*

4. *Language Dominance: The language that a person knows best and is most comfortable with. In the case of bilinguals, language dominance can often be discovered through special tests. It is not unusual to have one language dominant for certain situations and the other language dominant for others.*

5. *National Origin: An origin of a person in a country other than the United States. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of a person's national origin in any program or activity which receives federal financial assistance.*[1]

6. *Newcomer Centers: Locations established to assist new immigrants who are LEP with intensive services. Not an on-going, regular placement for a LEP student.*

7. *Peer Tutoring: LEP students being helped in school by other students who speak their same home language, but understand English better.*[1] *Peer tutors can also be monolingual English speakers.*

8. *Qualified Bilingual Personnel: Individuals who are qualified under State and local law to teach the subjects and grades to which they are assigned, who have successfully completed a course of study or the equivalent in-service training in the use of bilingual classroom materials and instructional practices, and who are able to understand, speak, read, and write in the native language of the students, as well as in English.*[1] *(OBEMLA)*

9. *Qualified ESL Personnel: Individuals who have received special training in English language methodology and linguistics with attention to all four language skills--listening, speaking, reading, and writing.*[1] *(Teachers of English to Speakers of Other Languages - TESOL)*

10. *Sheltered English: A program which adapts the instruction of English and content area subjects to teach ESL.*

11. *Special Language Services: Not a term indicating special education services. The instructional services prescribed and delivered to a LEP national origin-language minority population to help the students acquire the English language skills necessary to benefit from an education conducted in English. The services should be provided by*

a certificated and qualified instructor and should be based on sound educational theory and practices. May be ESL, bilingual, or other.

12. *Speech Therapy: A special education service for students who have speech or communication disorders or problems, after proper evaluation. Generally not a proper placement for LEP students, unless they have been properly evaluated through a Section 504-approved evaluation process, and found to require speech therapy on a basis other than their LEP status.*[1]

13. *Submersion: Language minority students are placed into an ordinary classroom where English is spoken. There is no special program to help them overcome the language problem. The minority home language is not used at all in the classroom. Submersion is aptly described as "sink or swim" and is not legally an acceptable approach.*[1]

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[1] Taken from Office for Civil Rights draft of definitions.

EXAMPLES OF PROMINENT EDUCATION APPROACHES USED TO TEACH LEP STUDENTS*

Transitional Bilingual Education (TBE)

Reading is initially taught in both the non-English home language and English. Subject matter is taught in the non-English home language until the students' second language (English) is good enough for them to participate successfully in a regular classroom. ESL is often used to help minimize the time needed to master English. Use of the non-English home language instruction is phased out as regular English instruction is gradually phased in. TBE is differentiated from submersion and ESL by the use of the non-English home language for instruction in non-language subject areas, and by teaching literacy in the non-English language as a school subject. (OBEMLA)

English as a Second Language (ESL)

ESL students are placed in regular submersion instruction for most of the day. During part of the day, however, these students receive extra instruction in English. This extra help is based on a special curriculum designed to teach English as a second language. The non-English home language may or may not be used in conjunction with ESL instruction. (OBEMLA)

Structured Immersion

Instruction is in English, as in the case of submersion, but there are important differences. The immersion teacher understands the non-English home language, and students can address the teacher in the non-English language; the immersion teacher, however, generally replies only in English. Furthermore, the curriculum is structured so that prior knowledge of English is not assumed as subjects are taught. Content is introduced in a way that can be understood by the students. The students in effect learn the second language and content simultaneously. Most immersion programs also teach the non-English language arts for 30-60 minutes a day. Structured immersion differs from transitional bilingual instruction in that the non-English home language is rarely used by the teacher (except where it is a subject) and subject area instruction is given in the second language from the beginning of the program. (OBEMLA)

Maintenance Bilingual Education (MBE)

Instruction which maintains language skills and literacy in English and a language other than English. Content instruction is offered through the medium of both languages so that, in theory, students will learn to use both languages equally well. (CAL)

High Intensity Language Training (HILT)

A total immersion program designed to teach students a new language. It is usually used with adults, recent immigrants, or others with a high degree of proficiency in their native language. (OCR)

Itinerant ESOL

One or two periods of English language instruction is given on a "pull-out" basis by a teacher who travels to several schools in one day.

Tutorial Program

Students receive one-to-one and small group instruction in English and regular subjects; some tutoring may be done bilingually, if needed.

These instructional types sometimes merge into one another; for example, most TBE programs include an ESL component. In addition, there is a considerable range of activities within each type. Experts in the field differ in their respective definitions of what bilingual education is. Nevertheless, the typology is real and important. If the types are thought of as representing different philosophies for addressing the needs of students with limited English proficiency, it is immediately apparent that the different philosophies lead to very different classroom practices which can be identified in actual settings.

*The Office for Civil Rights does not endorse one instructional program over another.

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Appendix

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DEPARTMENT OF
EDUCATIONAL AND CULTURAL SERVICES

Telephone (207) 289-5800

ADMINISTRATIVE LETTER NO. 28

POLICY CODE: CGC

TO: SUPERINTENDENTS

FROM: Eve M. Bither, Commissioner

RE: APPROPRIATE EDUCATIONAL PRACTICES FOR LIMITED ENGLISH PROFICIENT STUDENTS

DATE: MARCH 17, 1988

In the past few years, Maine school districts have enrolled an increasing number of students who speak little or no English. Many of these students are refugee children from Southeast Asia, Afghanistan, Iran, and Poland. Many school districts have found it difficult to identify and implement appropriate and effective educational programs for this low incidence, limited English proficient student population.

Obviously, these new American students are entitled to equal access to the American educational system. Educational services should provide English language communication features, learning skills, and subject content to prepare the limited English proficient student for academic achievement in all English instruction in the classroom.. Inadequate language and skills development instruction as well as premature exiting from specially designed programs result in academic failure for those students not quite ready for English-only content work in a majority of cases.

The attached document is intended to provide assistance to Maine school districts in designing and providing effective instructional programs to low incidence, limited English proficient students. First, it defines the legal obligations of the school district to this special population. The remainder of the document offers guidelines for fulfilling these obligations with appropriate language and learning skills development programs.

Inquiries may be directed to Dr. Barney Bérubé or to Ms. Susan Parks through the office of federal projects for minority languages at 289-5980.

APPROPRIATE EDUCATIONAL PROGRAMS FOR LOW INCIDENCE, LIMITED ENGLISH PROFICIENT STUDENTS

INTRODUCTION

The United States Congress addressed the subject of discrimination against linguistic minority students in the Equal Education Opportunity Act of 1974, 20 U.S.C. 1703.

> No state shall deny equal educational opportunity to an individual on account of his or her race, color, sex or national origin, by ...(f) the failure by an educational agency to overcome language barriers that impede equal participation by its students in its instructional programs.

Congress acted to ensure that all public schools would comply with this act, not just those receiving federal funds. This statute recognizes the state's role in assuring equal educational opportunity for national origin minority students. The statute also stresses that the failure of an educational agency to rectify appropriately a limited English proficient student's English competencies is a denial of equal educational opportunity.

To be consistent with current educational nomenclature, this document will refer to such students as Limited English Proficient (LEP) students. This terminology recognizes that some LEP students may have learned a degree of English understanding and speaking abilities but remain limited in reading and writing English. Also, the LEP nomenclature is mindful that limited English proficient students need more than just aural-oral abilities to achieve in English language standard curriculum instruction.

The guidelines which follow are consistent with federal decisions of the United States Supreme Court and significant lower court decisions, memoranda from the United States Department of Education and the Office of Civil Rights, Washington, D.C. as well as a review of the theoretical and empirical research literature in the fields of second language acquisition, bilingual, and English as a second language education.

LEGAL REQUIREMENTS

A. School systems must identify all students whose primary language is other than English, who have or may have difficulty performing ordinary classwork in English, and who can not learn or achieve on parity with their English dominant peers. Such LEP students must be placed in a specifically designed language support program. (Lau guidelines)

B. Any specially designed support or instructional program shall be consistent with all federal acts and mandates, related federal regulations and court cases as well as Maine State acts, mandates and policies, which relate to the education of limited English and National Origin Minority students.

C. This instructional program should be based on second language acquisition pedagogy and sound educational practices for meeting the individual needs of LEP students. The burden of proof is upon the district that the instructional program designed for a LEP student has clearly developed English language skills of comprehension, speaking, reading and writing necessary for learning and achieving in English-only instruction at a level substantially equivalent to pupils whose primary language is English (Castaneda V. Pickard, 648 F2d 989-5th Circuit-1981)

D. School systems which provide English language development programs to LEP students should reclassify students from limited English proficient (LEP) to fluent English proficient (FEP) by specific multi-criteria reclassification procedures-(Rios v. Read, 73 F. R.D., 595 [E.D. N.Y.-1977], Cintron V. Brentwood, [E.D.N.Y. #77-C-1370]).

PROCEDURES FOR IDENTIFICATION AND LANGUAGE PROFICIENCY CLASSIFICATION OF LIMITED ENGLISH PROFICIENT STUDENTS

A. To facilitate the identification and acceptable program placement of LEP students, the district should identify a suitable person or Language Assessment Committee to coordinate and oversee the educational program of LEP students enrolled in the school system. The person(s) will

1. conduct identification and language classification assessment activities;
2. assure appropriate program and instructional placement of student(s) classified as English proficient;
3. meet periodically with relevant bilingual, English as a second language, and standard curriculum staff to determine if student(s) is ready for partial or full-time mainstreaming;
4. develop and implement appropriate procedures for language proficiency reclassification of bilingual students;
5. monitor the follow-up activities for partial and fully mainstreamed students;
6. make recommendations for instructional or other services for partially and fully mainstreamed students;
7. develop a process for informing relevant bilingual, English as a second language or standard curriculum staff of LEP student progress;
8. establish a record keeping system for recording assessment results, instructional placement, reclassification procedures, and follow-up monitoring activities.

B. Identifying Newly Registering LEP Students

1. Identify primary/home language of the student(s) with "Lau" Home Language Survey. The Department conducts this process annually.
2. Interview the students and/or parent(s) or legal guardian(s) in the primary/home language to determine grade level and academic experiences, native language learning experiences the student has had.
3. Review by Language Assessment Committee all available educational documents or credentials. Relate this data to available English language descriptions of foreign educational procedures.
4. Determine English language proficiency using

E.3

acceptable procedures and instruments, administered by qualified certified bilingual or English as a second language instructor.

a. For kindergarten and primary level students: access student's listening and speaking competency, and English language readiness skills
b. For grade 3 through 12: access student's aural-oral skills, and reading and writing abilities.

C. Identifying Currently Enrolled LEP Students

1. Implement a standard curriculum classroom survey to identify students:
   a. who have a primary/home language other than English (home language surveys);
   b. who are not functioning on grade level;
   c. whose lack of academic achievement is due to limited English language proficiency.

2. Determine English language proficiency using acceptable procedures and instruments, administered by a qualified and certified bilingual or English as a second language instructor. Assessment instruments and procedures should evaluate English listening/understanding, speaking, reading and writing abilities. Student achievement should be comparable to English-language of the same age and grade level.

INSTRUCTIONAL PLACEMENT FOR STUDENTS IDENTIFIED AS LIMITED ENGLISH PROFICIENT

A. Based upon the language and educational data collected by the

   1. Home language survey or standard classroom survey,
   2. Native language interview,
   3. Review of available documents or credentials, and,
   4. English language proficiency assessment activities

   the limited English proficient student shall be placed in one of the following instructional programs.

B. A limited English proficient student will be placed in

   1. the appropriate grade or level of instruction in a full-time transitional bilingual education program
      or
   2. a native-language supported English language development program
      or

3. a structured English as a second language development program

APPROPRIATE PROCEDURES FOR RECLASSIFICATION AND TRANSFER OF LIMITED ENGLISH PROFICIENT STUDENTS

A. Districts must establish criteria for reclassifying a student's language proficiency before transferring the student to another instructional program.

1. Determine criteria which a LEP student would need to meet if he/she is to be reclassified as fluent English proficient (FEP). Criteria should be determined for fluent proficiency in English language skills of comprehension, speaking, reading and writing.

2. Identify assessment instruments and activities which are linguistically and culturally relevant for testing English proficiency domains.

3. Districts are urged to supplement language assessment activities with additional data on student achievement and other relevant factors for ensuring LEP students are prepared to receive instruction only in English.

B. A district should adopt specific criteria reclassification procedures consisting of

1. Teacher evaluation: relevant instructional staff would evaluate a student's general language proficiency by observing the student's oral performance in several formal and informal settings, and completing an observation-matrix profile.

2. Objective evaluation of a student's mastery of English as a second language skill objectives: an ESL instructor would administer a criterion-referenced test for evaluating mastery of ESL features and skills.

3. Objective assessment of oral language proficiency: in an appropriate and valid English proficiency instrument(s), the student must at least meet the publisher's specified English speaking fluency score.

4. Objective assessment of English language arts abilities: including the four skills area of listening, speaking, reading and writing, the student must demonstrate achievement on parity

with their English peers at the same age and grade level.

C. After implementing reclassification procedures, the language assessment committee would determine a new part or full time instructional placement for each student. A re-placement option would be placement in a standard curriculum classroom or program commensurate with the student's chronological age and grade level with daily or frequent English language support services - e.g., reading and writing instruction, content area tutoring, or advanced communication competencies instruction.

D. Within two weeks of a new instructional placement, a district should follow up and review a reclassified student's academic achievement and psycho-social adjustment. The aim of this follow-up review would be to ascertain if the reclassified student is able to academically compete with English language peers in all-English instruction. Another aim is to determine if the student is adjusting socially and psychologically to the new instructional placement.

E. The school district should establish procedures for periodically monitoring the newly classified fluent-English proficient student for at least three (3) years after reclassification and mainstreaming. The objective of this monitoring process is to objectively prove that the non-English language background student is adjusting to the new instructional setting and functioning substantially equivalent to non minority students in English-only instruction. Thus, the school district must insure that they continue to address the linguistic, academic and psychosocial needs of non-English language background students.

F. The district or language assessment committee will notify the parent(s) or guardian(s) of the student of the re-classification and new instructional placement.

1. Written notification should be in the primary language of the parent.
2. Notification to the parents should include information of their legal right to challenge the reclassification of their child.

RECOMMENDED TEACHER SKILLS

Regardless of the organization of an English program for LEP students, teachers will find the following competencies important to successfully providing appropriate services. English language development (ELD) teachers should have:

1. insight into the cultural and linguistic backgrounds as well as the academic experiences of their pupils;
2. a special knowledge of the sounds, syntax, semantics, and prosody in their own language to help their students learn these features as well as conflicts between the two language features;
3. experience in the methodology for successful second-language instruction;
4. contact with human or agency resources available to teachers of non-English-speaking students;
5. knowledge of the current issues and research in second-language pedagogy-psycholinguistics, bilingual education, and applied linguistics;
6. awareness of the dynamics of individualized instruction and how to use them in ESL instruction;
7. skills for adapting and developing relevant instructional materials for ESL instruction;
8. familiarity with ways to provide a learning atmosphere that promotes not only second-language skills but also enhances the sense of self in second-language students.

All these skills are necessary because ESL teachers often must provide instruction to students with a wide range of abilities, experiences and levels in both their native and second language; immigrant students sometime register continuously through the school year; ESL teachers often are liaisons between the non-English-speaking students and their English-language teachers.

Recent studies substantiate the existence of a positive relationship between English language proficiency and academic achievement measured in English. These studies and others establish the necessity of a level of quality and quantity of English competency plus academic skill necessary for achievement in English-only instruction.

LANGUAGE ASSESSMENT CONSIDERATIONS

A low level of English proficiency is not the only cause of under achievement among LEP and NELB students. Other variables affect a student's success: lack of equal access to special and tutorial services, institutional barriers, school social climate, perceived academic status, lowered socio-economic goals and previous academic experiences. Consequently, districts should consider the long-term affects of the instructional program provided LEP students, and the extent to which academic achievement is sustained after reclassification to FES takes place.

Using English language achievement instruments of proven validity and reliability, a district needs to assess a transitional LEP student's skills in comprehending-listening, speaking, reading, and writing domains of English language arts. The aim of this testing is to determine if the LEP student is able to learn with the English language in all-English instruction of the content areas in the standard classroom.

(1) If a norm-referenced test is used, the student's performance is compared to district non-minority norms. If district norms are low, the LEP student's performance is compared with National non-LEP norms.

(2) If a standardized criterion-referenced test is used, tests items should represent language arts skills in which English fluent pupils of the same grade and age are expected to be proficient.

(3) The score or percentile which the LEP student is required to meet must represent comparable ability by his/her English dominant peers. That is the cut-off scores chosen are relatively equivalent to the performance of English fluent students of the same age and grade.

(4) Scoring options might be:

a. cut-off scores not less than the 36th percentile of the norming group chosen (students scoring at or above the 36th percentile would be reclassified as "fluent English proficient" if teacher evaluation and oral-proficiency criteria are also met.)

or

b. cut-off scores in the range of the 31st to the 35th percentiles of the norming group chosen. (Students scoring within this range would be exited only with parent approval and if the committee judges the student's English language ability sufficient enough for successful learning in English-only instruction but with appropriate language support services as needed.)

or

c. cut-off scores for standardized criterion-referenced tests are relatively equivalent to the average performance of English dominant students of the same age and grade. (students scoring at this level would be reclassified fluent English proficient if teacher-evaluation and oral-proficient criteria are also met.)

Local educational agencies are financially pressured to mainstream LEP students as soon as possible. However, the long-range effects of premature reclassification and mainstreaming often result in poorer achievement by LEP students in all-English instruction. Districts then need to spend more monies on remedial services.

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